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Letter dated 18 January 2016 from the Chair of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

On behalf of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism, I have the honour to submit to the Security Council a document containing the global survey of the implementation by Member States of Security Council resolution 1373 (2001).

The survey was prepared by the Counter-Terrorism Committee Executive Directorate, in accordance with paragraph 6 of Security Council resolution 2129 (2013).

The Committee would appreciate it if the present letter and its annex were brought to the attention of the members of the Council and issued as a document of the Council.

(*Signed*) Amr Abdellatif **Aboulatta**
Chair
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Annex

Global survey of the implementation by Member States of Security Council resolution 1373 (2001)

Contents

Page

I. Introduction 4
II. Global outlook 5
  A. General observations 5
  B. Issues, trends and developments 6
III. Regional outlook 20
  Africa 20
    North Africa 20
    East Africa 25
    Southern Africa 31
    West Africa 36
    Central Africa 42
  Asia 47
    Pacific Islands 47
    South-East Asia 51
    South Asia 57
    Central Asia and the Caucasus 63
    Western Asia 68
    East Asia 74
  Latin America 78
    Central America 78
    Caribbean 83
    South America 87
  Europe and North America 93
    Eastern Europe 93
    Western European, North American and other States 99
    South-East Europe 106

IV. Thematic outlook 111
  A. National comprehensive and integrated strategies (subregional and national) 111
  B. Legislation 112
  C. Criminal justice 113
  D. Counter-financing of terrorism 116
  E. Law enforcement 119
  F. Border control 120
  G. International cooperation 122
  H. Human rights 123

Enclosure

Key counter-terrorism instruments 127

I. Introduction

1. The present survey was prepared by the Counter-Terrorism Committee Executive Directorate pursuant to the request of the Security Council, contained in its resolution 2129 (2013), that the Counter-Terrorism Committee Executive Directorate update the previous survey, issued in September 2011 (S/2011/463).

2. Section I of the survey identifies four key issues, trends and developments that have emerged since 2011: (a) the emergence of large numbers of foreign terrorist fighters, who travel to conflict zones to fight for terrorist organizations; (b) the role of women in terrorism and the prevention of terrorism; (c) the particular problems associated with children and adolescents in the terrorist environment; and (d) issues and trends associated with terrorists' increasing use of information and communications technology (ICT), including the Internet and social media, for terrorist purposes.

3. Section II provides an assessment of the implementation of resolution 1373 (2001), broken down by region and subregion, as in the previous survey. The subregional divisions used for the survey do not necessarily reflect the economic and political groupings used by the United Nations or other international or regional organizations. Section II also provides an overview of the trends, risks, and recommendations, as well as an analysis of the implementation of resolution 1373 (2001) in each subregion. The present section includes some references to specific States that have made notable progress in certain areas. However, the fact that other States are not mentioned should not be understood to reflect negatively on their implementation efforts.

4. The survey focuses on the major thematic areas addressed by the resolution: counter-terrorism legislation, counter-financing of terrorism, law enforcement, border control and international cooperation. It also takes into account the protection of human rights, as relevant to the requirements of the resolution. The sections on law enforcement and border control in each region have generally been expanded from the 2011 survey, as experts have identified additional criteria by which to assess progress in these areas.

5. Section III sets forth the general standards and recommended practices that should be in place to give effect to the provisions of the resolution and presents general global trends in the implementation of the resolution in key thematic areas. This thematic section might be more useful to the general reader, as it provides a more holistic picture of how the international community, in the broadest sense, has progressed in dealing with the challenge of terrorism since the adoption of the resolution.

6. At the conclusion of each subregional section, there are priority recommendations for practical steps that Member States could take to strengthen implementation of the resolution in each region or thematic area. It is hoped that these recommendations will also be useful for other international organizations and bilateral donors working in the counter-terrorism field.

7. During 2015, the Security Council issued three reports prepared by Counter-Terrorism Committee Executive Directorate experts on issues relating to the implementation of Security Council resolution 2178 (2014) on stemming the flow of

foreign terrorist fighters and related policy issues (S/2015/338, S/2015/683 and S/2015/975). The analysis in the present survey is consistent with those reports.

8. The survey relies on data compiled on the basis of information and updates provided by Member States to the Committee; reports on visits to Member States (the Executive Directorate has visited more than 90 States on behalf of the Committee); regional workshops; and information provided by international, regional and subregional organizations. The data are also recorded in the detailed implementation survey and overview of implementation assessment prepared by the Executive Directorate for each Member State. As with the previous version, the present survey was prepared by the experts based on their professional judgement of the information available as at December 2015.

9. A list of key counter-terrorism instruments is provided in the enclosure.

II. Global outlook

A. General observations

10. The terrorist environment has changed considerably since the previous survey, in which it was noted that progress made by States in implementing resolution 1373 (2001) had resulted in a weakening of certain terrorist networks. States continue to make progress in combating certain networks. In certain regions (e.g., parts of South-East Asia), the risk of terrorism has somewhat diminished. However, the scale of the threat in parts of the Middle East and Africa has escalated and diversified, and now affects more Member States.

11. The terrorist threat is evolving rapidly. It has also become more diverse, challenging and complex, partly because of the considerable financial resources flowing to certain terrorist organizations from the proceeds of transnational organized crime. Terrorism and the spread of violent extremism continue to destabilize volatile regions across the Middle East, the Maghreb, the Sahel, Lake Chad Basin and the Horn of Africa. Terrorist groups are quick to seize opportunities provided by the weakening of Government in conflict situations. The Syrian crisis has become a serious threat to international peace and security. It has also sparked the world's biggest current humanitarian emergency crisis and caused the deaths of at least 250,000 persons (including more than 10,000 children). In his statement dated 17 August 2015 (S/PRST/2015/15), the President of the Security Council said that around 12 million persons (including more than four million who had sought refuge in neighbouring countries) had been forced to flee their homes, and more than 12.2 million persons in the Syrian Arab Republic require urgent humanitarian assistance.

12. Some terrorist groups control vast territories and harbour aspirations to establish State-like structures. Large parts of the Syrian Arab Republic are under the control of terrorist groups, such as the Islamic State in Iraq and the Levant (ISIL), also known as Daesh (and ISIS), and the Al-Nusrah Front. Boko Haram controls significant parts of North-East Nigeria, and Al-Shabaab controls large areas of Somalia.

13. Transnational organized crime — whether carried out by terrorist organizations themselves or in cooperation with established criminal networks — remains a

crucial source of terrorist financing. Recent developments in the Sahel region, North Africa, the Middle East, South-East Europe and Central Asia, highlight the potential for this challenge to destabilize entire regions and facilitate terrorism. In each of those regions, terrorist groups benefit from transnational organized crime through coercion, cooperation, or the taxing of criminals operating in areas under their de facto control. Cooperation with organized criminal networks provides terrorist groups with (a) access to funding and resources through trafficking and smuggling of stolen commodities, arms, drugs, antiquities, human beings and other resources, and kidnapping for ransom; (b) opportunities for recruitment; (c) expertise; (d) operational support; and (e) access to smuggling routes and forged documents. Terrorist and organized criminal organizations thrive in volatile conditions. Their activities can weaken State institutions, thereby creating a vicious cycle.

14. Foreign terrorist fighters travelling to Iraq and the Syrian Arab Republic and other regions to join terrorist organizations pose an acute and growing threat. They increase the intensity, duration and intractability of conflicts, and may pose a serious threat to their States of origin, the States they transit, and the States to which they travel, as well as States' neighbouring zones of armed conflict in which such fighters are active (e.g., Jordan) which, because they must devote massive resources to combating the threat, may also be regarded as victims of terrorism. The foreign terrorist fighter threat can potentially affect all regions and all Member States (even those located far from conflict zones). Terrorists and terrorist entities have established international criminal networks in States that are crossed by foreign terrorist fighters and by the resources deployed to support them.

15. Addressing the threat posed by foreign terrorist fighters requires comprehensively addressing the underlying conditions conducive to the spread of terrorism, including through measures to: prevent radicalization to terrorism; suppress recruitment; prevent foreign terrorist fighter travel; disrupt financial support for them; counter violent extremism; counter incitement to terrorism; promote political and religious tolerance, economic development, social cohesion, and inclusiveness; resolve armed conflicts; and facilitate the reintegration and rehabilitation of returning foreign terrorist fighters (see S/2015/338 for more information on this issue).

B. Issues, trends and developments

16. The Security Council has emphasized the essential role to be played by the Counter-Terrorism Committee Executive Directorate within the framework of overall United Nations efforts to assess issues and trends relating to the implementation of resolution 1373 (2001). In its resolution 2129 (2013), the Council directs the Executive Directorate to identify emerging terrorist issues, trends and developments.

1. Foreign terrorist fighters

17. On 24 September 2014, the Security Council adopted the landmark resolution 2178 (2014) (see www.un.org/press/en/2014/sc11580.doc.htm), in which it called upon all States to cooperate urgently to prevent the international flow of terrorists. The resolution requires States to take specific and concrete steps to clamp down on the movement of foreign terrorist fighters from and through their territory and

(importantly, for the purposes of the present survey), underlines that the increasing threat posed by foreign terrorist fighters is one of the emerging issues, trends and developments relating to resolution 1373 (2001) and merits the close attention of the Counter-Terrorism Committee.

18. Throughout 2015, the Committee's Executive Directorate identified the measures that States would need to take in order to effectively address foreign terrorist fighter-related challenges. Those measures relate to a broad range of areas, including legislation, law enforcement, finance, border security, preventing violent extremism, and rehabilitation and reintegration. Most States have at least some related measures in place. Some States have identified creative solutions, with respect in particular to countering violent extremism and dealing with returning foreign terrorist fighters.

19. The lack of domestic criminal laws to prosecute foreign terrorist fighters remains a major shortfall, globally. Few States have introduced comprehensive criminal offences to prosecute foreign terrorist fighter-related preparatory or accessory acts. Many rely on existing legislation to tackle the foreign terrorist fighter phenomenon, and such legislation may not be sufficient to prevent their travel. In most States, prosecutions are undermined by difficulties in collecting admissible evidence abroad, particularly from conflict zones, or in converting intelligence into admissible evidence against foreign terrorist fighters. States have also experienced challenges associated with generating admissible evidence or converting intelligence into admissible evidence from information obtained through ICT, particularly social media. Investigating and prosecuting suspected foreign terrorist fighters pre-emptively is a further challenge for all subregions, particularly in the light of due process and human rights concerns. Many States continue to face challenges in identifying appropriate responses to the potential threat posed by specific categories of travellers and returnees. Several States have used a wide range of administrative measures (e.g., stripping dual citizens of citizenship, revoking passports, and denying social services).

20. In several subregions, lack of information-sharing and inter-agency cooperation and coordination remains a major impediment to the successful interdiction of foreign terrorist fighters. All States would benefit from strengthening national and international law enforcement information-sharing and inter-agency cooperation and coordination. Many law enforcement agencies lack the technical capacity to investigate terrorist cases within a rule of law framework and in accordance with international human rights obligations. There is a need for coordinated action among Government agencies and information technology and law enforcement sectors to tackle the foreign terrorist fighter phenomenon. States have enhanced monitoring of cross-border foreign terrorist fighter movements, but many still lack the technical and operational capacity to effectively detect and prevent their travel. Long, porous borders and inadequate immigration and visa controls are additional impediments. Very few States are fully connected to the relevant databases of the International Criminal Police Organization (INTERPOL). Few currently use advance passenger information systems or passenger name record systems, which are effective risk-based tools to identify potential foreign terrorist fighters. States should therefore continue their efforts to adopt comprehensive and innovative approaches to effectively stem the flow of such fighters in accordance with resolution 2178 (2014).

21. Several gaps remain in efforts to disrupt funding sources. States of all regions should enhance their domestic anti-money-laundering/counter-financing of terrorism regimes. Many States continue to face challenges in actively investigating and prosecuting the financing of terrorist organizations and suspected foreign terrorist fighters, and few have taken the necessary legal, institutional and administrative measures to prohibit and suppress the financing of them, including their travel and related activities. Many States have recorded few, if any, terrorism-financing convictions.

22. Most States have identified the need to address conditions conducive to the spread of terrorism as part of a comprehensive approach to tackle the terrorist threat. States of all regions have introduced tools to complement traditional law enforcement actions in countering violent extremism and radicalization that leads to terrorism, including rehabilitation and reintegration strategies, the development of counter-narratives, and the promotion of cultural and religious tolerance. Despite increased recognition of the need to engage civil society in countering violent extremism efforts, opportunities for such engagement remain limited in several regions. Very few States have developed comprehensive countering violent extremism strategies. Some have integrated measures into their counter-terrorism responses to monitor the spread of violent extremism via the Internet. However, preventing use of the Internet for terrorist purposes remains a major challenge for most regions (see S/2013/722, sect. XII).

23. Many States are struggling to cope with the challenges posed by returning foreign terrorist fighters. Large numbers of them may return to their countries of origin or elect to go to third countries (including other conflict zones), taking with them operational expertise and international networks. Some returnees may also be victims of crime. However, a number of States have introduced a broad range of criminal justice, administrative, and rehabilitation and reintegration measures to mitigate the potential threat posed by returning foreign terrorist fighters.

24. The transnational nature of the foreign terrorist fighter phenomenon requires enhanced criminal justice cooperation among States aimed at denying safe haven. International judicial cooperation in criminal matters relating to foreign terrorist fighters is an additional challenge because the criminalization of related offences continues to be criminalized in different ways. This could lead to a refusal of international cooperation in criminal matters. For example, mutual legal assistance might be refused because the requested State may lack the necessary legislation and therefore refuse to apply the principle of dual criminality. Very few States surveyed submit mutual legal assistance and extradition requests effectively. Many of the States that have not designated central authorities or signed bilateral or cross-regional agreements for cooperation in criminal matters relating to foreign terrorist fighters are among those most affected by this phenomenon.

25. States should therefore consider the use of existing and innovative tools in order to achieve more effective international cooperation. Transfer of criminal proceedings and the application of the principle of mutual recognition of foreign judgements in criminal matters are two examples. States should also consider utilizing the principle of reciprocity as the basis for providing international cooperation in the context of countering the foreign terrorist fighter threat. When reciprocity is invoked in accordance with international human rights obligations, law enforcement officials and judicial authorities can successfully conduct

international cooperation, including mutual legal assistance or extradition, to bring terrorists to justice. All States should enhance their judicial cooperation — both formal and informal — in bringing foreign terrorist fighters to justice and securing reliable evidence in accordance with resolution 2178 (2014).

2. Women and terrorism

26. Women play multiple roles in terrorism-related policy, including those of victims of terrorist violence, active fighters, sympathizers, and mobilizers for terrorist groups, and of being agents of social change and helping to prevent acts of terrorism and violent extremism. It is important to note that, until the adoption of resolution 2129 (2013), international counter-terrorism instruments were largely "gender-blind". Since then, however, efforts have been made to amend this oversight, focusing on three areas of activity: women as the targets of terrorism, women as the perpetrators of terrorist acts, and women as preventers of terrorism.

(a) Women as targets of terrorism

27. Since 2013, ISIL, Boko Haram, and Al-Shabaab have attacked women as a means of asserting social control and military supremacy, as well as a means of expanding their military and political goals. By subjecting women to individual and mass kidnapping, rape, sexual exploitation, slavery, forced pregnancies and other forms of violence and punishments, groups such as ISIL and Boko Haram have sought to destabilize, humiliate, degrade and eliminate a target population — in this case, any community not adhering to the groups' particular interpretation of Islam, including other Muslims.

28. The Office of the High Commissioner for Human Rights (OHCHR) reports that, since 2013, Boko Haram has subjected women and girls to widespread and severe abuses, including sexual slavery, sexual violence, forced marriages, forced pregnancies and forced conversions. Younger girls are often married off to fighters, while older women are forced to work as cooks and cleaners. In Nigeria,[1] more than 200 of the kidnapped women and girls were reportedly sold into marriage and sexual slavery for 12 United States dollars each.[2] The whereabouts of many of the victims remains unknown, while those in captivity are reportedly deprived of food and water for up to two or three days, and those who attempt to escape are beaten and threatened with death. Of the women and girls who were rescued,[3] many were pregnant, a sign that gender-based violence was used as a tool to advance Boko Haram's agenda (just as mass rape was used by armed groups in the former

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[1] From December 2013, Boko Haram extended its attacks to States bordering Nigeria, notably Cameroon, the Niger and Chad. In addition to the kidnappings in Chibok in Nigeria, the group reportedly abducted 600 women in Cameroon and 200 women and children in the Niger. See the report of the United Nations High Commissioner for Human Rights on violations and abuses committed by Boko Haram and the impact on human rights in the affected countries, A/HRC/30/67, 29 September 2015.

[2] See "Nigeria's kidnapped girls sold into marriage", *Al Jazeera*, 1 May 2014, www.aljazeera.com.

[3] On 14 April 2014, Boko Haram infamously abducted 276 school girls from Chibok, Borno state, Nigeria. Since then 57 have managed to escape, and in April 2015 the Nigerian military rescued 293 abducted women and children from Boko Haram's stronghold in the Sambisa forest, some of whom may have been from Chibok. Many of the women and girls were reportedly pregnant. As at June 2015, 307 rescued women and children were enrolled in a Government-run "de-radicalization programme" in Nigeria.

Yugoslavia and the Democratic Republic of the Congo). Rescued women are often afraid to return to their families for fear of being rejected because of the dishonour that their having been subjected to sexual crimes may bring upon the family. If they are rejected by their families, women then become more vulnerable to radicalization and to committing acts of terrorism, as well as to forms of exploitation, such as human trafficking.

29. Many human rights violations committed against women by Boko Haram have also been perpetrated by other groups, including ISIL. During its early August 2014 attacks in northern Iraq, ISIL abducted hundreds of Yazidi women and girls, many of whom were taken into its controlled territory in the Syrian Arab Republic and sold as sexual slaves or bonded labour, alongside other kidnapped women (for about $100 each) or used as "bargaining chips" for ransom money.[4] ISIL welcomed the sexual enslavement of Yazidi women as a symbol of conquest and a way to prevent a further generation of Yazidis from being born. A sign that "the hour [the Apocalypse]" has arrived, claims ISIL, is when "the slave girl gives birth to her master".[5]

30. Further human rights violations against women have been committed and induced by a regime of fear that includes measures such as social repression, public beatings and executions and early marriages. Hundreds of Muslim women and girls (some as young as 13) have been coerced into marrying ISIL fighters under the pretence that such marriages represent a "reward", rather than a punishment.[6] As a result, early marriage is increasing, as families elect to marry their daughters early in order to avoid a marriage into ISIL. This raises serious concerns about violation of the social, economic and cultural rights of girls and young women, as well as the degrading of the overall social and economic development of the Syrian Arab Republic. This phenomenon therefore severely undermines global efforts not only to combat and prevent terrorism, but also to promote sustainable economic development and the building of more peaceful, just and equitable societies.[7]

31. The repression of women through the strict and often violent policing of social and moral codes has also been observed in areas controlled by Al-Shabaab and other organizations.[8] The violation of women's rights, some of which may also amount to violations of international humanitarian law, is thus systematic and widespread.

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[4] See Human Rights Watch (2015). "Iraq: ISIS Escapees Describe Systematic Rape", available at: www.hrw.org/news/2015/04/14/iraq-isis-escapees-describe-systematic-rape; and Wood, "Islamic State: Yazidi women tell of sex-slavery trauma", BBC news, 22 December 2014, available at: www.bbc.com/news/world-middle-east-30573385.

[5] Statement taken from ISIS magazine, reported by the 2014 OHCHR report of the Independent International Commission of Inquiry on the Syrian Arab Republic, entitled "Rule of Terror: Living under ISIS in Syria". Available at: www.refworld.org/pdfid/5469b2e14.pdf.

[6] Ibid.

[7] See "Transforming our world: the 2030 Agenda for Sustainable Development," particularly Sustainable Development Goals 5 (women) and 16 (peace, security and rule of law), available at: https://sustainabledevelopment.un.org/post2015/transformingourworld.

[8] See Human Rights Watch (2010). "Harsh War, Harsh Peace: Abuses by al-Shabaab, the Transitional Federal Government, and AMISOM in Somalia", April 2010, available at: www.hrw.org/report/2010/04/19/harsh-war-harsh-peace/abuses-al-shabaab-transitional-federal-government-and-amisom; and Graham-Harrison, "Public stoning consideration is latest setback for Afghan women's rights", *The Guardian*, 25 November 2013, available at: www.theguardian.com/world/2013/nov/25/public-stoning-womens-rights-afghanistan-government-adultery.

Efforts to curb, prevent, and address the consequences of such violations must consequently be equally systematic and combine local and national initiatives within the framework of global cooperation.

32. In their efforts to support and rehabilitate victims of terrorism and violent extremism, States should ensure that front-line officials and practitioners are sensitized to women's special needs, which derive from their ordeals, as well as from the circumstances of their communities. An increase in the number of women in the security sector — especially in law enforcement and counter-terrorism units — would also be an asset. It is equally important to encourage local level social and religious support for the victims. For example, after the Yazidi ordeal, a Yazidi religious leader known as Baba Sheikh issued a statement welcoming escaped women back into the community and stating that no one should harm them.[9]

(b) Women as perpetrators of terrorism

33. The participation of women in acts of political violence and terrorism is not a new phenomenon.[10] However, a noticeable escalation in the activities of prominent female members of terrorist groups and the number of female foreign terrorist fighters necessitates further exploration of this topic. In Nigeria, as a result of increased restrictions on their movement,[11] Boko Haram has sought out women to carry out logistical tasks, such as the smuggling of arms and munitions and the passing of information, the assumption being that they can pass checkpoints and avoid house inspections more easily than their male counterparts.[12] In August 2013, Government forces arrested five female Boko Haram members carrying rifles and ammunition under their hijabs.[13] In 2014, women were found to have been informants for the group.[14] In July 2014, four suicide attacks were carried out by

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[9] See Human Rights Watch (2015), "Iraq: ISIS Escapees Describe Systematic Rape", available at: www.hrw.org/news/2015/04/14/iraq-isis-escapees-describe-systematic-rape; 6 February 2015, Baba Sheikh reiterated his statement: "These survivors remain pure Yezidis and no one may injure their Yezidi faith because they were subjected to a matter outside their control … We therefore call on everyone to cooperate with and support these victims so that they may again live their normal lives and integrate into society."

[10] See Fink, Barakat and Shetret, "The Roles of Women in Terrorism, Conflict and Violent Extremism", Policy Brief, April 2013, available at: http://globalcenter.org/wp-content/uploads/2013/04/13Apr11_Women-and-Terrorism-Prevention_Final.pdf.

[11] Since the declaration of a state of emergency in May 2013, a further 3,000 Nigerian troops have been deployed to supplement the 5,000-strong Joint Task Force already in operation. This resulted in an increase in raids on militants' houses and in restrictions of movement as multiple checkpoints were enforced. See "Boko Haram: Government silence does little to inspire confidence", *ThinkAfricaPress*, 25 February 2014, available at: http://thinkafricapress.com.

[12] See Drăgulescu, "Gender-based violence: Women employed as terror tools by Boko Haram", Consultancy Africa, 3 October 2014, available at: www.consultancyafrica.com/index.php?option=com_content&view=article&id=1719:gender-based-violence-women-employed-as-terror-tools-by-boko-haram&catid=91:rights-in-focus&Itemid=296.

[13] See Marama, "JTF, vigilantes arrest female Boko Haram", *The Vanguard Nigeria*, 17 August 2013, available at: www.vanguardngr.com.

[14] See Chima, "Concern mounts over B'Haram female operatives", *The Cable Nigeria*, 3 July 2014, available at www.thecable.ng.

women in Kano.[15] In ISIL-held territory, women have actively joined the Al-Khans'aa, an all-female branch of the Al-Hisbah' morality police, and assist with monitoring strict dress codes and carrying out punishments. Women have also reportedly joined the group's efforts to provide basic health and education services.

34. Women have also played the roles of recruiters and mobilizers for terrorist groups. ISIL is reportedly recruiting more women than any other group. Much of the recruiting is itself carried out by women recruits.[16] In contrast to Al-Qaida, ISIL seeks to control territories and build State-like structures. It gives women concrete tasks, allowing them to meet a need for social expression. This is particularly relevant in the case of foreign terrorist fighters, who leave their families behind in pursuit of an ideal. There are numerous cases of foreign women who have travelled to ISIL-held territory and use social media to promote the group and its State-formation project.[17] In Nigeria, three women, including the widow of a Boko Haram fighter, were arrested in July 2014 for recruiting female members.[18]

35. Although the role of women in terrorist acts remains relatively underexplored, studies suggest that women and men are drawn to terrorism for most of the same reasons: grievances, sociopolitical conditions, personal grief, ideological beliefs, perceived or actual benefits, desire to effect societal change, and a sense of adventure.[19] In the case of Boko Haram, economic incentives have seemingly played a role in the recruitment of women. In northern Nigeria, 69.1 per cent of the population live on less than $1 per day.[20] Boko Haram has offered women weapons-carriers between $30 and $312 per mission.[21] However, the motivations for women to join terrorist organizations are contextual and varied. Studies based on the testimonies of returned women foreign terrorist fighters suggest that the search for a new and concrete identity, the escape from a restrictive society and the desire to enact social change have all played a part in motivating women to join terrorist groups, whether they be from poor or middle class, religious or secular, rural or urban backgrounds.[22]

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[15] See Bloom, "Female suicide bombers are not a new phenomenon", *The Washington Post*, 6 August 2014, available at: www.washingtonpost.com. However, although one might presume a certain level of informed consent from an adult suicide bomber, the case of a 10-year-old girl strapped with explosives and detained by police suggests she was used as an instrument of terror — see Pflanz, "10-year-old would-be suicide bomber arrested in Nigeria", *The Telegraph*, 31 July 2014, available at: www.telegraph.co.uk.

[16] See Fantz, "From Scottish teen to ISIS bride and recruiter: the Aqsa Mahmood story", CNN, 24 February 2015, available at: www.cnn.com/2015/02/23/world/scottish-teen-isis-recruiter/.

[17] See Bakker and De Leede, "European Female Jihadists in Syria: Exploring an Under-Researched Topic", International Centre for Counter-terrorism (ICCT) Background Note, April 2015, available at: www.icct.nl/download/file/ICCT-Bakker-de-Leede-European-Female-Jihadists-In-Syria-Exploring-An-Under-Researched-Topic-April2015(1).pdf.

[18] See "Boko Haram crisis: Nigeria arrests female recruiters", BBC, 4 July 2014, www.bbc.com.

[19] See Fink, Barakat and Shetret, "The Roles of Women in Terrorism, Conflict and Violent Extremism", Policy Brief, April 2013, available at: http://globalcenter.org/wp-content/uploads/2013/04/13Apr11_Women-and-Terrorism-Prevention_Final.pdf.

[20] See Nigeria poverty profile 2010, National Bureau of Statistics, January 2012, available at: www.nigerianstat.gov.ng.

[21] See "Boko Haram: Coffers and coffins", Terrorism Research and Analysis Consortium, March 2014, available at: www.trackingterrorism.org.

[22] See Bakker and De Leede, "European Female Jihadists in Syria: Exploring an Under-Researched Topic", ICCT Background Note, April 2015, available at: www.icct.nl/download/file/ICCT-Bakker-de-Leede-European-Female-Jihadists-In-Syria-Exploring-An-Under-Researched-Topic-April2015(1).pdf.

36. In an effort to curb the recent increase in women perpetrators of terrorism, States are encouraged to conduct further research into the reasons why terrorist propaganda resonates with women and girls and to develop contextualized responses, which may include specially designed and targeted projects within programmes that address the root causes of violent extremism, whether through economic development, job creation, or the promotion of human rights and the rule of law. These projects need not exclusively target women, but they should take into account their particular needs, susceptibilities and vulnerabilities. Counter-messaging programmes are also important. They should include the voices of women, particularly women who have disengaged from terrorist groups.[23] Gender-sensitive rehabilitation programmes should also be developed to help to reintegrate women into society and feed into more effective counter-messaging programmes.

(c) Women as preventers of terrorism

37. Women can be powerful agents of social change and can help in the prevention of terrorism and violent extremism. Many already participate in innovative efforts to inform, shape and implement their own strategies to prevent terrorism and also take part in national counter-terrorism strategies (e.g., as teachers, social workers and engaged members of their communities). In many societies, women are seen as custodians of cultural, social and religious values, allowing them access and influence within the local community in ways that can promote dialogue and civic engagement. For example, in ISIL-controlled territory, local women groups have organized networks to free captured women and return them to their families.[24] In Europe, women have taken part in counter-messaging and disengagement strategies for many years, with largely positive results. In Pakistan, women's groups have been empowering vulnerable women and helping them to disengage their sons from violent extremism for a decade.[25]

38. In 2014, the first global female counter-terrorism platform, Sisters Against Violent Extremism (SAVE), was formed. It encourages and empowers women to take a stand against violent extremism in their communities.[26] All such initiatives — and there are many more — have been recognized as positive contributions to national and global counter-terrorism efforts. The ability of civil society to operate freely, both in conflict zones and elsewhere, is vital to unleashing the catalysing potential of local actors, including women, as preventers of terrorism and violent extremism.[27] In order to do so, States are encouraged to build the capacity of

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[23] Ibid.

[24] See "Shelters without walls: women building protective infrastructures against rape," MADRE briefing, 20 April 2015, available at: www.madre.org/page/madre-articles-134/news/shelters-without-walls-women-building-protective-infrastructures-against-rape-1003.html and http://iknowpolitics.org/en/knowledge-library/interview/yanar-mohammed.

[25] For example, see the PAINAM initiative, more information available at: http://paiman.jsi.com/.

[26] SAVE has chapters in Egypt, France, Indonesia, Israel/Palestine, Nigeria, Pakistan, Saudi Arabia, the United Kingdom and Yemen, to name but a few, and it brings together victims of terrorist attacks, maintains liaison with policymakers, security experts and works to increase a sense of mutual understanding between different peoples within conflict areas. See www.women-without-borders.org/save/.

[27] For more on the impact of financial restrictions on women's groups, see "The Impact on Women: Counter-terrorism Laws and Policies Restricting Peacebuilding and Humanitarian Work", Charity and Security Network, Issue Brief, August 2015, available at: www.charityandsecurity.org/system/files/files/Issue%20Brief%20-%20women%20in%20conflict(1).pdf.

women's civil society groups, including female political, community and religious leaders, to engage with their local communities in effective ways. Women report being torn between contacting the authorities to incriminate a family member suspected of having been radicalized (and thus potentially losing their liberty) and making sure that they prevent the family member from travelling overseas (and thus potentially losing their lives). If women are to play constructive roles in helping to prevent violent extremism, it is imperative that their rights and those of their families are also guaranteed.

39. When designing criminal-justice responses and other programmes to help in the rescue, disengagement, rehabilitation and reintegration of women as victims or perpetrators, States should ensure that programmes are designed in consultation with local women who have expertise in the field and that their response institutionalizes the exchange of information and feedback for the purposes of learning and establishing best practices. It must also be borne in mind that every woman's involvement with a terrorist group is an individual journey that can cross many areas.[28] The same woman may be variously target, perpetrator and preventer, mobilizing others to travel, travelling herself, rejecting her decision, attempting to leave the group, and ultimately helping to prevent the recruitment of others by sharing her story. It is therefore crucial that efforts targeting the role of women in countering terrorism are contextualized, evidence-based and comprehensive.

3. Information and communications technology

(a) The threat

(i) Recruitment

40. The rapid technological advances of the past decade have created an environment in which individuals are able to freely interact and instantaneously share their views with their counterparts worldwide. This new capacity to communicate directly with a global audience in a multidirectional manner has freed terrorist organizations from their reliance on traditional media as the primary channel for conveying their messages to their followers and the wider world.

41. ISIL has leveraged the vast reach of ICT to propagate its ideology, publicize its movements/accomplishments, raise its funds, and coordinate its operations. It has utilized social media tools to develop highly successful recruitment campaigns that have attracted more than 30,000 foreign terrorist fighters from over 100 States.

42. Social media are effective for recruitment because of their capacity to launch decentralized campaigns through volunteers who re-post content. It is estimated that between September and December 2014, ISIL supporters used around 46,000 Twitter accounts.[29] Although the extent to which social media alone may radicalize an individual is subject to much debate, social media certainly makes it easier for radicalized individuals to connect with a terrorist recruiter. Almost 80 per cent of aspiring foreign terrorist fighters based in the United States of America have downloaded extremist propaganda and promoted it online or engaged with other

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[28] See Huckerby, "Gender, Violent Extremism, and Countering Violent Extremism", *Just Security*, 3 March 2015, available at: www.justsecurity.org/20620/gender-violent-extremism-countering-violent-extremism-cve.

[29] Brookings Institution, *The ISIS Twitter Census*, March 2015.

extremists online.[30] Individuals wishing to join a terrorist organization or travel to a conflict zone can initiate direct and anonymous contact with a terrorist recruiter on widely accessible platforms, such as Twitter, Facebook, YouTube, Tumblr, Ask.fm, Instagram, or WhatsApp. They can then "go dark" by restricting private communications to encrypted apps.

43. In addition to providing outreach to a global pool of potential recruits, social media allows recruiters to "narrowcast" (i.e., adapt their messages to target specific audiences). To appeal to young adults, ISIL has produced propaganda videos inspired by popular contemporary culture, such as movies and videogames. The portrayal of violence and force (e.g., recordings of beheadings or images of innocent victims allegedly killed by enemies of ISIL) is designed to resonate powerfully with aggrieved or marginalized individuals. In propaganda aimed at other market segments, images of food, kittens and babies seek to cast ISIL in a favourable light and portray the "normality" of life in ISIL-controlled territories. Some online recruitment campaigns now aim at skilled professionals, such as hackers, web designers, and developers of mobile telephone applications and dedicated social media platforms, both open and encrypted. Other campaigns are targeted at doctors, engineers and other professionals.

44. By contrast, closed Internet forums are less accessible to potential recruits who often do not know the site addresses or passwords or members who could provide them with such knowledge. Moreover, forum servers may be subject to "takedowns" and cyberattacks, such as Distributed Denial of Service, which is an attempt to make a machine or network resource unavailable to users by overloading it with requests. Nevertheless, closed Internet forums remain a tool of choice for committed members and supporters of terrorist groups.

(ii) *Technological challenges: encryption and attribution*

45. Contemporary forms of encryption and anonymity permit Internet users to protect the confidentiality and integrity of their content against third-party access or manipulation and to conceal their identities. For example, secure-transmission applications such as Threema provide true "end-to-end" encryption from sender to recipient, based on established and renowned cryptography. In addition to using open source encryption solutions, terrorist organizations have begun to develop their own proprietary encryption software. However, although encryption protects the content of communications, it does not conceal identifying factors such as the Internet Protocol (IP) address (known as metadata). In order to avoid identification, Internet users are also employing anonymizing tools such as TOR (The Onion Router), a freeware that directs Internet traffic through 6,000 relays to conceal the user's location and usage.

46. These tools protect users' privacy, allowing them to browse, read, develop and impart opinions and information without arbitrary and unlawful interference (see the report of the Special Rapporteur on freedom of opinion and expression (A/HRC/29/32)). However, law enforcement and counter-terrorism officials express concern that terrorists and ordinary criminals use encryption and anonymity to hide their activities, making it difficult for Governments to prevent, and conduct investigations into terrorism. Law enforcement agencies must sift through vast

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[30] US Homeland Security Committee, *Combatting Terrorist Foreign Fighter Travel*, September 2015.

amounts of data and differentiate between individuals who are merely expressing opinions and those who are likely to join a terrorist organization, travel, or commit an act of terrorism in their own State. Technology firms, such as Apple, Microsoft and Google, have announced plans to encrypt their corporate and customer data end-to-end, and some Governments argue for "backdoor" access to be able to decrypt data. Almost all online communication may be encrypted within a few years. Encryption technologies are consistently improving, making it impossible for law enforcement agencies to break through.

(iii) Cyberattacks

47. As their level of technological sophistication improves, terrorist organizations will increasingly try to damage critical infrastructures, including global financial institutions, communication networks, utilities, and Governments. The July 2015 report of the fourth session of the Group of Governmental Experts on Developments in the Field of Information and Telecommunications in the Context of International Security (A/70/174) concluded that the use of ICTs for terrorist purposes, beyond recruitment, financing, training and incitement, including for terrorist attacks against ICTs or ICT-dependent infrastructure, is an increasing possibility that, if left unaddressed, may threaten international peace and security.

48. Users of certain discussion forums incite hackers to mount high-profile attacks against those considered to be enemies. Some attacks carried out against financial institutions are suspected to have been related to terrorist organizations or their sympathizers, who also regularly launch Distributed Denial of Service attacks, data leaks, credit card frauds, and defacements of websites — actions that require a relatively low level of expertise. One such "black hat hacker", Junaid Hussain aka Abu Hussain al-Britani, was jailed in the United Kingdom of Great Britain and Northern Ireland in 2012 for hacking the e-mail account of a former British Prime Minister and posting his information online. He subsequently left the United Kingdom for the Syrian Arab Republic to support ISIL and was allegedly a key figure of the group Cyber Caliphate, which hacked the Twitter accounts of the United States Central Command and United States media outlets, such as *Newsweek* and the *International Business Times*, before being killed in August 2015. According to a Russian cyberintelligence company, hackers aligned with ISIL are likely to have attacked around 600 Russian websites in 2014. Similar attacks have been reported all over the world.

49. Even if terrorist organizations lack advanced cyberwarfare capability, they can purchase the required technological expertise from the "darknet" (closed networks) where organized criminal groups sell illegal drugs, guns, and counterfeit goods. Some highly sensitive critical infrastructures, such as power plants, may be using "air gapping" to ensure that a secure computer network is physically isolated from unsecured networks such as the Internet or an unsecured area network. Cyberattackers would need to obtain physical access to the secure computer network by recruiting an individual having legitimate access to the secured area.

(b) Response

(i) Member States

50. Terrorists' growing abuse of ICT presents a significant challenge for policymakers and law enforcement officers. The Internet is regulated in a decentralized fashion.

There are few universally accepted rules and several States lack the domestic legal framework and the capacity to oversee and regulate activities falling within their jurisdiction.

(ii) Legislation

51. Below are some of the questions that States will need to address when considering the analysis, detection, prosecution and prevention of the misuse of cyberspace for terrorist purposes:

- What grounds of jurisdiction are recognized by national laws? (Use of a computer system/data located within the territory, action directed against a computer system/data located within the territory, nationality principle (offender), nationality principle (victim), habitual residence principle, incorporation principle (legal person), State interests principle, jurisdiction when extradition is refused (*aut dedere aut judicare*), actions on ships and aircraft under the national flag?)
- Are States criminalizing acts related to incitement to terrorism, financing, planning or one of the offences included in the 19 international counter-terrorism instruments in a way that includes the use of ICT?
- Are sanctions for the misuse of cyberspace for terrorist purposes that do not intend to cause death or serious bodily harm proportional or the same as for other terrorist acts that do intend to cause death or serious bodily harm?

(iii) Technical capacity of law enforcement

52. Some States have implemented cyberspace-monitoring measures such as Internet Referral Units, which monitor social media content, support law enforcement agencies in investigating cybercrimes, flag terrorist content, and inform private corporations of the abuse of their resources.[31]

(iv) Legal powers of law enforcement

53. Some States have reviewed the special investigative powers of law enforcement agencies in relation to ICT and terrorism. Other States may wish to consider the following questions:

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[31] In Europe, under Germany's leadership, a Europol initiative known as "Check the Web" was launched in 2007 to "store comprehensive information on persons, objects and activities" related to suspicious activities. Similarly, in 2010, the United Kingdom launched its Counter-Terrorism Internet Referral Unit to support the removal of unlawful Internet content by the private sector, support the police counter-terrorism network in investigating and prosecuting terrorist or radicalizing activity, and act on referrals from citizens and public bodies. The volume of unlawful content removed by Internet companies increased significantly to 46,000 pieces in 2014. Content relating to the Syrian Arab Republic and Iraq now represents around 70 per cent of the Counter-Terrorism Internet Referral Unit caseload. On 12 March 2015, the European Union Council of Ministers agreed on the creation of a European Union Internet Referral Unit by 1 July 2015, under Europol, that would include the existing Check the Web initiative. Since the Unit is still in the developing stages, it is too early to determine its efficacy. Nevertheless, it will be tasked with coordinating and sharing the identification tasks (flagging) of terrorist and extremist content online, carrying out and supporting Internet referrals in cooperation with the private sector, and providing strategic and operational analysis in support of national agencies. The Internet Referral Unit is developed by Europol in cooperation with Member States, the Commission and other involved agencies.

- Do national laws explicitly provide a power for competent authorities to order a person on its territory to submit data under its possession or control?
- Do national laws explicitly provide a power to search computer hardware or data?
- Do national laws explicitly provide a power to seize computer hardware or data?
- Do national laws explicitly provide a power to obtain real-time collection of data?
- Do national laws explicitly provide a power to intercept content data?
- Are special investigative powers subject to proper judicial and parliamentary oversight?
- Do national laws explicitly provide that electronic evidence/records are admissible in court proceedings and provide process for authentication rules?

54. Another potential area of interest for the Committee and its Executive Directorate is regulation of the private sector:

- Do national laws include an obligation for Internet service providers and other ICT firms to retain client data for a specified period?
- Do national laws empower competent authorities to order or similarly obtain the expeditious preservation of specified computer data?
- Do national laws provide for a data-protection regime to protect privacy of individuals?
- Do national laws explicitly grant powers to competent authorities to take down online content subject to prior judicial authorization and subject to judicial review?
- Do national laws explicitly include a power to obtain subscriber information?

55. Another evolving issue in countering the terrorist use of ICT is the effectiveness and wisdom of the removal of online content, which may be legally removed, but can easily be recreated under a new account, platform, or server. It may be impossible to completely eradicate terrorist-generated content. Also, the intelligence value and ineffectiveness of removal may render removal of content ill-advised in certain circumstances.

(v) Multi-stakeholder approach: the private sector and civil society

Challenges for private Internet companies

56. The Internet is to a large extent privately owned and operated. Social media firms, telecommunications companies, Internet service providers, providers of website, data-hosting or any ICT services are all integral partners of the global ICT infrastructure. Many key private corporations are engaged in global activities and have users around the world. They also locate their data centres in several States. Private corporations are subject to the domestic laws of the States in which they operate and must cooperate with law enforcement agencies. However, as noted above, the complexity of the global ICT framework raises several difficult jurisdictional issues in terms of the applicability of domestic laws and the powers of

States to enforce them. Private corporations must deal with conflicting domestic laws in their international operations. Facebook, for example, has established guidelines for cooperation with law enforcement worldwide, preservation of data, and emergency requests.

57. Private corporations also employ their own terms of use for their services and can either remove content or terminate the accounts of users violating those terms. Such measures are taken by corporations in the context of terrorist activities, such as recruitment and incitement to terrorism in relation to foreign terrorist fighters. Most large corporations proactively and voluntarily moderate content uploaded by their users or remove content that is contrary to their terms and conditions. YouTube has removed 14 million videos over the past two years. Facebook receives and reviews 1 million user notifications per week concerning violation of its terms of use (not only for terrorist-related postings) and Twitter has closed around 2,000 ISIL-related accounts in recent months. It should be recalled that any such practices must be undertaken in compliance with international human rights law, in particular, international standards on freedom of expression and the right to privacy. The Committee and its Executive Directorate may wish to review the practice of the private sector worldwide and support self-regulation efforts by the industry in accordance with international law standards.

58. Other forms of Internet content, for example, child pornography, have been successfully moderated. However, moderating child pornography is relatively easy because of its very nature. Analysis of contextual political propaganda, even with clearly violent content, is much more difficult and subjective. Because algorithms cannot automatically review content, experts with the required substantive and linguistic skills must moderate content. Large ICT corporations employ teams to review such content 24 hours a day, 7 days a week.

59. Although criminal sanctions or law enforcement measures may be appropriate in cases in which Internet and social media communications rise to the level of incitement to terrorism or recruitment, in many cases the most effective response to objectionable content published online by terrorists and their supporters may be counter-narratives and counter-messaging. Governments continue to develop counter-messaging approaches to challenge and refute messages supporting or glorifying terrorist activity, while others are proactively producing alternative messages (e.g., retelling and amplifying positive narratives that advocate peace, respect and social inclusion, or deconstructing the narratives of terrorists). Effective strategies to counter the threat of online radicalization require that Governments act beyond legislative and law enforcement measures to engage with communities and industry. In most cases, the most effective conveyers of counter-narratives may be family and friends, civil society actors, academic institutions, religious or community leaders, and other non-governmental actors. For such campaigns to be effective, the private sector (because of its intimate knowledge of social media demographics and marketing tools) should be an active participant. Governments should welcome grass-roots campaigning initiatives and support them.

Human rights dimension of information and communication technology issues

60. Actions by States to prevent or remove messages and information communicated through ICT for terrorist purposes raise questions about the relationship between impermissible forms of expression and respect for the right to

freedom of speech and opinion. In the preamble of its resolution 1624 (2005), the Security Council recalls article 19 of the International Covenant on Civil and Political Rights and also recalls that any restrictions on freedom of expression shall only be such as are provided by law and are necessary on the grounds set out in paragraph 3 of article 19 of the Covenant. National security is one of the grounds upon which the freedom of expression might be lawfully restricted. However, limitations should be proportionate to the threat faced and non-discriminatory. In addition, article 20 of the Covenant calls upon States to prohibit by law any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.

61. Although digital communications technologies can be used by individuals for criminal objectives, including terrorism-related objectives, States must exercise care in conducting surveillance of private digital communications. Mass surveillance of digital communications not only implicates the right to privacy, but may also undermine other fundamental human rights, such as freedom of expression, association and movement (A/HRC/13/37, paras. 33-38). As noted by the United Nations High Commissioner for Human Rights, lawful and targeted (as opposed to broad-based) surveillance of digital communications may constitute a necessary and effective measure for intelligence and law enforcement entities to prevent the recruitment of terrorists via the Internet (A/HRC/27/37, para. 24).

62. Private Internet companies need to continually identify, assess, prevent and mitigate any adverse impact of their actions upon human rights of their users, as encouraged, inter alia, by the Guiding Principles on Business and Human Rights endorsed by the United Nations Human Rights Council in 2011 (A/HRC/27/37, para. 43).

63. Enhanced multi-stakeholder dialogue vis-à-vis violent extremist and/or terrorist activity via the Internet should be pursued. In this regard, the dialogue may need to focus on avenues available to further human rights-compliant "self-regulation", as well as on effective cooperation by private entities with intelligence and law enforcement agencies.

III. Regional outlook

Africa

North Africa
(Algeria, Egypt, Libya, Mauritania, Morocco, Tunisia)

A. Terrorist and threat environment

1. Trends (including foreign terrorist fighters)

64. The first North African State to experience terrorism was Egypt, in the 1980s. It was followed by Algeria, in the 1990s. Terrorist attacks carried out recently in Sinai Province have demonstrated that Egypt remains vulnerable to the threat of terrorism. More recently, Tunisia has been the victim of three terrorist incidents. The deteriorating situation in Libya has led to the development of havens for terrorists and an upsurge in the trafficking of weapons to terrorist groups both inside

and outside the subregion. Those groups notably include the Organization of Al-Qaida in the Islamic Maghreb (AQIM), Ansar al-Sharia, ISIL, and groups that have pledged alliance to ISIL (which uses the North Africa subregion to recruit foreign terrorist fighters). Of the estimated 30,000 foreign terrorist fighters that have departed for the Syrian Arab Republic, more than 6,000 come from this subregion, which remains a significant transit route for various forms of trafficking, including in drugs, arms and migrants.

2. Risks

65. Domestic tensions and external political tensions, the political and security situation in Libya, and the aftermath of the "Arab spring" have increased the vulnerability of the subregion, which also faces an influx of migrants trying to find their way to Europe. The closing of several border crossings and the militarization of borders for security reasons have sparked discontent among the local populations, adding to the existing tensions. The lack of border-control capacity in some States of the subregion is a source of concern for their neighbours. Foreign terrorist fighter returnees pose a risk to the security of States of the subregion. There is a risk that the links between terrorist organizations and organized criminal networks that facilitate funding for terrorist acts will help to sustain terrorist groups of the subregion.

3. Priority issues/recommendations

- Promote rule of law-based investigations and prosecutions
- Reform the security sector so that it is compliant with human rights
- Engage relevant local communities and non-governmental actors through the establishment of appropriate countering violent extremism strategies
- Promote community policing as a means to prevent the recruitment of individuals into terrorist groups
- Develop strategies and programmes for the prosecution, reintegration and rehabilitation of foreign terrorist fighters
- Strengthen subregional information and intelligence-sharing, including on foreign terrorist fighters
- Connect main border crossings to the INTERPOL I-24/7 system and make better use of INTERPOL databases
- Implement advance passenger information systems and conduct border controls based on risk assessment
- Conduct comprehensive risk assessments to protect money/value transfer service providers and prevent non-profit organizations from being abused for terrorism-financing purposes
- Strengthen regional cooperation in the fight against terrorism.

B. Areas of assessment

1. From prevention to rehabilitation

(a) Comprehensive counter-terrorism strategies (subregional and national)

66. The subregion has not developed a counter-terrorism strategy, but individual States have adopted national approaches, road maps and/or strategies to combat terrorism and/or violent extremism. However, there is a need for States to engage with relevant local communities and non-governmental actors in the development and implementation of strategies to counter violent extremism and to promote community policing as a means to prevent terrorist recruitment. Some States have implemented rehabilitation programmes for convicted terrorists. There is currently no specific programme in place for the rehabilitation of former foreign terrorist fighters.

(b) Human rights

67. No State of the subregion has established an independent body to oversee law enforcement counter-terrorism activities. In most States, law enforcement activities are overseen by the Office of the Prosecutor and the examining magistrate. All States have national human rights institutions, but only two are considered to be independent, and their effectiveness has not been fully demonstrated. All States have a definition of terrorist acts that is, in some instances, too broad and vague and thus could extend to acts that may be unrelated to terrorism. United Nations human rights bodies have expressed concern over, inter alia, excessive periods of pretrial detention, incommunicado detention, and allegations of ill-treatment in detention. Several States have taken steps to address those concerns, notably by introducing or amending legislation to ensure that key rule of law principles are embodied.

2. Addressing enablers

(a) Intent and knowledge

68. Most States have specifically criminalized passive and active recruitment to commit acts of terrorism, with three criminalizing recruitment inside and outside their territories.

69. Some States have adopted legislation to counter cybercrime that empowers the competent authorities to monitor electronic communications to prevent terrorist offences upon authorization by the judicial authorities. In one State, the law also imposes data-retention obligations on service providers (notably with respect to data for the detection of offences and identification of the perpetrators). However, States of the subregion have expressed concern that Internet servers are hosted abroad and that judicial cooperation is therefore required in order to block some websites. In addition, data-protection laws hamper cooperation in this regard. Most States have also expressed the need for specialized training on cybercrime for the judiciary. All States but one have developed some capacities to monitor Internet sites or social media. One State, in particular, has established a cybercrime unit and its experts have the tools and skills required to conduct electronic searches and surveillance of online propaganda, advocacy and recruitment.

(b) Means

(i) Financing/freezing of assets

70. All States but one criminalize terrorist financing as a stand-alone offence, and the definition of terrorism covers the financing of both an individual terrorist and a terrorist organization in most States. Two States have either updated their legislation or issued implementing regulations to designate individuals and organizations whose assets must be frozen. Another State is in the process of revising its anti-money-laundering/counter-financing of terrorism legislation to include provisions on asset-freezing. However, only one State can freeze assets without delay and only one State has initiated a comprehensive national risk assessment to prevent or mitigate money-laundering and terrorist financing. Most States have adopted a declaration system aimed at detecting the illicit physical cross-border transportation of currency. However, these systems appear to be designed to control foreign currency and prevent capital flight rather than to address the fight against money-laundering and terrorism financing. Thus, very few financial intelligence units are receiving reports from customs to be fed into their databases. No State has undertaken a review of the non-profit sector with regard to the risk of its abuse for terrorism-financing purposes. Morocco, however, has launched an exercise to map the various types of non-profit organizations in the context of terrorism-financing risk assessment. In one State, a large number of non-profit organizations have recently been suspended for alleged links with extremist groups.

(ii) Firearms

71. Owing to the inability of one State to manage its stockpile of weapons and ammunition and its failure to control its borders, weapons are being smuggled across the borders. In response, some States have either closed their borders or dug ditches. Most States of the subregion have criminalized the trafficking of illicit firearms, but their legislation does not fully cover alteration of firearms or the illicit obliteration of their markings.

3. Opportunity and border security

72. Only one State specifically criminalizes the smuggling of terrorists. However, all others have legislation in place to criminalize the smuggling of migrants, and this legislation could be applied to smuggling of terrorists. Although some States operate automated border-management information systems and are connected to national databases, only one State is connected at main border crossings to the INTERPOL I-24/7 Stolen and Lost Travel Document database, red notices for suspected and wanted persons, or United Nations sanctions lists. No State implements an advance passenger information system, although some conduct checks manually against passenger manifests transmitted prior to arrival.

73. Only one State has introduced legislation on refugees, although most have refugee status-determination procedures in place and work closely with the Office of the United Nations High Commissioner for Refugees (UNHCR). Some States conduct background checks in order to prevent the abuse of asylum status by individuals who have committed or have been involved in a criminal act including terrorist activities. There have been cases of refoulement of refugees in at least one State.

4. Bringing terrorists to justice

(a) Planning and preparation

74. Few States criminalize acts of planning and preparation of terrorist acts as autonomous offences, relying instead on general provisions in their respective criminal codes on accomplice liability for serious offences. Some States criminalize several manifestations of material support to a terrorist act (e.g., supply of weapons to, funding, harbouring, or hiding terrorists).

(b) Foreign terrorist fighter travel element

75. Several States have taken steps to meet the requirements of resolution 2178 (2014). These States have either amended their laws or are in the process of doing so with a view to including some of the resolution's key provisions, including criminalization of the travel of nationals or foreigners residing in the State for the perpetration, planning or preparation of, or participation in, terrorist acts, or receiving and providing training in or outside the territory; the wilful organization of travel for individuals travelling abroad for the purpose of preparing terrorist acts, or participating in, providing, or receiving training or facilitating the commission of terrorist acts, including recruitment; and entering or crossing the territory with a view to travelling to another territory to commit terrorist offences. All States have criminalized joining a terrorist group inside and/or outside the territory. One State has introduced a legislative amendment specifically covering the financing of travel pursuant to resolution 2178 (2014).

76. With respect to the transit and outflow of foreign terrorist fighters, two States have used administrative measures to confiscate the passports of individuals suspected of joining terrorist groups. One State is studying the possibility of requiring exit visas for its citizens wishing to travel abroad. However, the use of this system has been criticized by United Nations human rights mechanisms. Concerns have also been raised about travel bans imposed on young persons without justification or judicial procedure. It is recommended that care be taken to respect rule of law and human rights principles in developing mechanisms to ban travel or prevent travel documents from being issued.

(c) Capacity to investigate and prosecute

77. Several States have investigated and prosecuted alleged perpetrators of terrorist acts. Investigators rely on a wide range of special investigative techniques in terrorist investigations. However, the modalities for the use of such techniques by the security services should be clearly, precisely and exhaustively defined in law and jurisprudence in order to ensure their conformity with rule of law and human rights principles. This is not always the case in those States. National capacity-building is also needed to strengthen the effectiveness of rule of law and human rights-based investigations, prosecutions and adjudication of terrorist cases, through the provision of specialized training.

78. All but two States have established specialized judicial units to handle terrorism cases. This facilitates specialization among magistrates and the centralization of terrorist cases, as well as the pooling of human, material and financial resources. In one State, terrorist offences may also be tried by military courts. Some States consider that their prosecution offices have sufficient authority,

capacity, expertise, technical means and human resources to handle terrorism cases. However, all agree on the need for continuous training and exchange of experience with foreign counterparts.

5. Activating international cooperation

(a) Effective mutual legal assistance and extradition

79. No State of the subregion has developed and made publicly available guidelines on domestic laws and procedures relating to mutual legal assistance and extradition. However, one State is in the process of developing such guidelines. With the exception of one State, which has introduced a law specifically dedicated to extradition, North African States mostly rely on international, regional and bilateral agreements and on some provisions on extradition and mutual legal assistance in criminal matters in their respective codes of criminal procedure or counter-terrorism legislation. All States but one have designated a national central authority responsible for processing extradition and mutual legal assistance requests.

80. Some examples of effective international cooperation are the platform for cooperation on counter-terrorism established among the prosecutor's offices of Belgium, France, Morocco and Spain, and the exchange of liaison magistrates between Algeria and France. However, there is a need to strengthen judicial cooperation, both among the States of the subregion and with the Sahel.

(b) Ensuring effective exchange of information and intelligence

81. Exchange of information and intelligence is mostly carried out on a bilateral basis. There is no INTERPOL subregional office. This undermines regional police collaboration. Although all States have an INTERPOL National Central Bureau, consultation and population of INTERPOL databases, including the foreign terrorist fighter database, should be increased. Three States (Algeria, Libya and Mauritania) are members of the Fusion and Liaison Unit, located in Algiers, which is a mechanism to centralize and process intelligence transmitted by intelligence services of States members of the Unit, in order to transmit it to the Joint Military Staff Committee of the Sahel Region (*Comité d'États majors opérationnel conjoint*), which, however, is not yet operational.

East Africa
(Comoros, Djibouti, Eritrea, Ethiopia, Kenya, Rwanda, Somalia, South Sudan, Sudan, Uganda, United Republic of Tanzania)

A. Terrorist and threat environment

1. Trends (including foreign terrorist fighters)

82. East Africa has made progress in the implementation of resolutions 1373 (2001) and 1624 (2005), in particular in the area of preventing terrorist financing. However, capacity constraints and continued instability and conflict remain significant obstacles to full implementation of the relevant Council resolutions, including resolution 2178 (2014). The subregion continues to suffer from the activity of terrorist groups, in particular Al-Shabaab. In March 2014, in the report of

the Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator (S/2014/177, para. 12), it was estimated that Al-Shabaab controlled at least half of southern and central Somalia. Political tensions in coastal areas are a potential source of further radicalization. Emerging groups, such as Al-Muhajiroun, have used social media to threaten communities in Kenya, Uganda and the United Republic of Tanzania. States of the subregion have also served as origin, transit and destination States for foreign terrorist fighters.

83. According to UNHCR, irregular and regular movements of migrants and asylum seekers are hampering the efforts of States to effectively control long and porous borders and to sustainably integrate various population groups. Other States have made progress in the implementation of the counter-terrorism legislation, but have focused on a heavy-handed response. There are also concerns about limitation of freedom of action in civil society.

2. Risks

84. Political tensions in coastal areas and ready access to small arms and light weapons threaten to engender further radicalization. Part of the subregion is also highly vulnerable to exploitation as a terrorist safe haven and for the planning and preparation of terrorist acts to be committed elsewhere. The subregion suffers from ongoing conflict, and implementation of the counter-terrorism international instruments is very limited. There is a high risk that it will increasingly be used as a hub for trafficking of all kinds (small arms and light weapons, drugs, human smuggling and commodities). Several States currently host refugee camps, and Governments are especially concerned about the effects of population movements and potential abuse of asylum systems. Addressing these issues requires resource and capacity levels that are not available to most States. The use of cash is still widespread and measures to detect cash couriers have been insufficiently implemented. This increases the risk of trafficking and the flow of funds from trafficking to terrorist organizations.

3. Priority issues/recommendations

85. The focus of the subregion should be on implementation and strengthening existing measures. In particular, States should:

- Adopt terrorism-specific legislation, including requirements of resolution 2178 (2014)
- Implement integrated border-management systems to prevent the exploitation of remote, poorly regulated areas
- Strengthen information-sharing by border, law enforcement and security entities, including through the shared use of INTERPOL and other databases
- Improve control and monitoring of small arms and light weapons
- Implement measures to detect cross-border cash flows and promote financial inclusion
- Enhance efforts to prevent violent extremism by promoting dialogue and outreach between communities and civilizations. Countering violent extremism efforts should be comprehensive and inclusive, in order to promote a common understanding throughout society.

B. Areas of assessment

1. From prevention to rehabilitation

(a) Comprehensive counter-terrorism strategies (subregional and national)

86. Although the East African Community has developed a subregional counter-terrorism strategy, little information is available on its implementation. States of the subregion have not developed a national strategy or a comprehensive, integrated counter-terrorism/countering violent extremism approach. Kenya, however, is currently developing an integrated counter-terrorism and countering violent extremism strategy, the pillars of which of which correspond to those of the United Nations Global Counter-Terrorism Strategy (General Assembly resolution 60/288). Implementation of the strategy and the development of an inclusive process involving civil society actors remain a challenge.

(b) Human rights

87. Amendments to one State's counter-terrorism legislation have raised concerns about balance and proportionality. The constitutional court of that State, however, has halted the introduction of a number of investigative measures in an effort to protect human rights and the rule of law.

88. Few States of the subregion have established independent bodies to oversee law enforcement. Four States have established independent human rights institutions but they need to demonstrate their effectiveness. Fair-trial and due-process rights are generally enshrined in national constitutions or legislation, and most States have also established a human rights commission. However, United Nations human rights bodies have expressed concerns about extrajudicial killings, heavy-handed law enforcement responses, racial and ethnic profiling, lack of access to civilian criminal justice procedures, and the suppression of civil society in several States. Moreover, tensions caused by poverty, low education levels, limited access to justice, and absence of social inclusion must be addressed if States of the subregion are to develop a coherent, effective prevention platform. It is particularly important to implement an inclusive approach that involves key civil society actors.

2. Addressing enablers

(a) Intent and knowledge

89. Only some States of the subregion make it an offence to recruit another person into a terrorist organization. This is a major general weakness.

90. The terrorist groups active in this subregion make frequent use of the Internet in promoting their activities and threatening communities. However, Internet usage is not yet widespread, owing to capacity and resource constraints. Political turmoil also limits access. From an investigative and intelligence perspective, interception of telephone communications therefore remains a widely-used tool.

91. In their efforts to combat the dissemination of terrorist ideologies, terrorist recruitment, and incitement to terrorist acts, Governments of the subregion should continue to address the role of the Internet and other forms of ICT, as well as other potential sources, including the situation of refugees, asylum seekers and irregular migrants, and intercommunity tensions (the April 2015 terrorist attack in Garissa was followed by political discussions about the need to close the Dadab refugee

camp). Enhanced intercommunity dialogue should be considered an essential part of measures to prevent violent extremism and terrorism. However, Governments have not generally taken steps to assess or raise awareness of the risk of terrorism financing through abuse of the non-profit organization sector. Moreover, several States have implemented strict registration requirements for such organizations that may be interpreted as infringing upon the right to freedom of association. However, failure to impose appropriate requirements on the non-profit organization sector can prove counterproductive and undermine the effectiveness of the relevant legislation. Strengthened outreach to non-profit organizations can help to define appropriate regulations and can also be an effective way to operationalize countering violent extremism measures.

(b) Means

(i) Financing/freezing of assets

92. The use of cash and alternative remittance services remains widespread. Ethiopia, Kenya and the United Republic of Tanzania have made improvements to their counter-financing of terrorism systems and have been removed from the Financial Action Task Force on Money-Laundering watch list. Seven States have ratified the 1999 International Convention for the Suppression of the Financing of Terrorism. All except one have criminalized terrorist financing. Only Kenya has established a comprehensive legal framework to freeze assets. The others either have no framework or only a limited framework in place to freeze assets without delay. Only Ethiopia and Kenya have frozen assets in practice. Concerns have been expressed about the lack of due process in national asset-freezing measures. Systems to control or monitor physical cross-border cash flows remain limited, often because of capacity and resource constraints. Insufficient sharing of information by financial intelligence units and customs authorities at the national and subregional levels further undermines the detection of money flows. Financial measures aimed at preventing terrorism financing risk may provoke counterproductive reactions ("de-risking") such as closure of the accounts of alternative remittance systems, non-profit organizations and mobile companies. This could potentially have the negative effect of limiting the amount of information available to Governments.

(ii) Firearms

93. Measures introduced to stem the flow of small arms and light weapons include international arms embargos (Eritrea and Somalia) and legislative measures. However, the capacity to implement such measures continues to be hampered by the subregion's lengthy, porous borders; corruption; the sheer numbers of small arms and light weapons present in the subregion; and continued political instability and conflict situations in the Sudan and South Sudan. Rwanda has developed effective disarmament, demobilization and reintegration programmes, but there remains an urgent need for a subregional disarmament, demobilization and reintegration approach aimed at harmonizing legislation, building institutional capacity, and developing joint cross-border operations.

3. Opportunity and border security

94. East Africa continues to be extremely vulnerable to terrorism-related crimes. Continued political instability and the conflicts in Somalia, South Sudan and the Sudan contribute to this vulnerability, which is exacerbated by the subregion's porous borders, illegal flows of cash and weapons, and the movement of migrants and asylum seekers/refugees. Inequalities related to economic, social and cultural rights may also exacerbate tensions among the subregion's various ethnic populations, potentially fuelling terrorist narratives and recruitment campaigns in areas where Governments appear to be non-responsive to community demands or criticism. Some States have introduced legislation to address the smuggling and trafficking of persons. Only one State has extended INTERPOL databases to all ports of entry/exit. No State has introduced an advance passenger information system. Few States appear to have introduced an information management system linking border checkpoints and providing real-time access to visa and passport information and alerts.

95. No visa is required for travel between certain (East African Community) States. This weakness could potentially be exploited. There is also limited use of databases, such as the INTERPOL Stolen and Lost Travel Document, and limited resources are available to implement integrated border-management mechanisms. Significant refugee and asylum seeker populations have complicated this issue, resulting in challenges to integration and community relations. Most States have introduced legislation on refugees and established refugee-determination systems. In general, States of the subregion work closely with UNHCR. Several States are "originating States", with refugees travelling from Eritrea, Somalia and South Sudan to other States, either within the subregion or elsewhere. It is not clear, however, whether existing legislation is sufficient to prevent the abuse of such systems by suspected terrorists or whether officials are sufficiently trained in this area.

4. Bringing terrorists to justice

(a) Planning and preparation

96. Most States have criminalized the planning or preparation of a terrorist act. Several have introduced broader provisions (e.g., on promotion/facilitation, incitement and conspiracy) that could also be used to prevent terrorist acts through proactive investigation and prosecution. Overall, however, there continues to be a need to strengthen legislative frameworks. Not all States have adopted specific counter-terrorism legislation.

(b) Foreign terrorist fighter travel element

97. No State has introduced legislation specifically addressing the travel element of resolution 2178 (2014). However, the legislation of some States is sufficiently broad to cover most foreign terrorist fighter-related offences. Some States also criminalize the provision of receipt of training to commit acts of terrorism.

(c) Capacity to investigate and prosecute

98. Most States face severe resource and capacity constraints in this regard. Only Kenya and Uganda have demonstrated the capacity to investigate and prosecute terrorism cases, including through trained specialized prosecution units

complemented by specialized police units empowered to use a range of special investigative techniques. Other States of the subregion continue to struggle to strengthen civilian criminal-justice capacity to investigate and prosecute terrorism-related offences. In Somalia, most terrorism-related cases are handled by military courts. Kenya, Uganda and the United Republic of Tanzania have established a specialized counter-terrorism unit. Rwanda has also established a special dedicated counter-terrorism unit within its police force, but its officers have no specialized training, equipment or mandate. United Nations human rights bodies have expressed concerns about the heavy-handed response of Kenya's Anti-Terrorism Police Unit.

5. Activating international cooperation

(a) Effective mutual legal assistance and extradition

99. In general, States of the subregion have engaged in bilateral agreements only to a limited degree. The various regional mechanisms (Commonwealth, EAC, Intergovernmental Authority on Development (IGAD)) provide avenues for information exchange and cooperation. Some States rely on the international counter-terrorism instruments as the legal basis for mutual legal assistance and extradition. The IGAD conventions on mutual legal assistance and extradition have not yet entered into force. Only Djibouti and Ethiopia have ratified them. Some essential counter-terrorism tools do, however, exist. Most States of the subregion have established an INTERPOL National Central Bureau and are members of the Eastern Africa Police Chiefs Cooperation Organizations (EAPCCO), which has developed law enforcement guidance manuals to help strengthen and standardize investigations.

100. Informal cooperation (through, e.g., EAPCCO) has resulted in successful exchange of information between Kenya and Uganda in the preparation of the prosecution of those who carried out the 2010 Kampala bombing. In some States, the strict application of dual criminality requirements may limit the effectiveness of international cooperation. Not all States have included terrorism offences as extraditable offences. This also limits the effectiveness of subregional and international cooperation in terrorism cases.

(b) Ensuring effective exchange of information and intelligence

101. With respect to information/intelligence and investigation, membership in EAC, EAPCCO and INTERPOL provides a strong framework for sharing and cooperation. Some States have entered into effective bilateral arrangements to counter specific offences such as piracy. Such arrangements might also be used to strengthen cooperation in other areas.

102. Implementation of the EAC regional counter-terrorism strategy would strengthen the use of mechanisms for international and subregional cooperation, mutual legal assistance, extradition, and information exchange. However, it is important to provide the necessary infrastructure and capacity. Prevention efforts should also prioritize measures to address conditions conducive to terrorism, from a holistic and subregional perspective, taking into account the movements of people within the subregion.

Southern Africa
(Botswana, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Zambia, Zimbabwe)[32]

A. Terrorist and threat environment

1. Trends (including foreign terrorist fighters)

103. Southern African States are committed to the full implementation of resolutions 1373 (2001) and 2178 (2014), but competing priorities and capacity gaps impede progress. The subregion has not been the victim of terrorist attacks. However, it is not free from the threat of terrorism, particularly in view of the evolving global terrorist environment. Al-Shabaab in the Horn of Africa and even ISIL in the Syrian Arab Republic and Iraq are beginning to attract individuals from the subregion, and a few States have been used as transit States for would-be foreign terrorist fighters from Western States. The subregion has the potential to be exploited as a terrorist safe haven and for the planning and preparation of terrorist acts to be committed elsewhere. According to UNHCR, irregular and regular movements of migrants and asylum seekers are complicating States' efforts to effectively control long and porous borders and to sustainably integrate different populations. Mozambique, with its long sea border and proximity to the United Republic of Tanzania, may already be exploited as a safe haven by Al-Shabaab.

2. Risks

104. States of the Southern African Development Community (SADC) (of which all the above-listed 12 States are members) have recognized a number of common and shared risks, including long, porous borders; low institutional capacity (from criminal justice to social development to financial institutions); and the lack of terrorism-specific legislation or specialized investigation and prosecution capacity. However, since the subregion has not suffered from terrorism, existing frameworks and relevant institutions/mechanisms are essentially untested. Potentially relevant subregional structures, such as the SADC/INTERPOL Early Warning Centre, are not yet fully operational. Governments are concerned about movements of persons and potential abuse of asylum systems; the proliferation of small arms and light weapons; trafficking of drugs; and human smuggling. Terrorists may exploit these vulnerabilities.

3. Priority issues/recommendations

- Strengthen overall coherence and capacity to prevent terrorism and the exploitation of poorly regulated territory and to effectively deal with attacks. This includes enhancing the capacity and the will to strengthen timely information-sharing by border, law enforcement, and security entities and the use of electronic, shared databases, including INTERPOL databases, and improving control and monitoring of small arms and light weapons
- Introduce effective measures to regulate cross-border cash flows and promote financial inclusion

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[32] Several statements in this section do not pertain to the small islands.

- Address lack of social inclusion and the irregular migration and refugees, and accelerate economic gains across all levels of society.

B. Areas of assessment

1. From prevention to rehabilitation

(a) Comprehensive counter-terrorism strategies (subregional and national)

105. With the notable exception of South Africa, no State of the subregion has developed national strategies or implemented a comprehensive, integrated counter-terrorism approach. However, acting under the auspices of SADC and the African Union's African Centre for Studies and Research on Terrorism during 2014 and 2015, States of the subregion developed an integrated counter-terrorism strategy for Southern Africa that focuses on prevention and broadly corresponds to the United Nations Global Strategy. There is a need to ensure that operationalization of the strategy and other count-terrorism measures are balanced and proportionate and respect human rights and the rule of law.

(b) Human rights

106. Most States have established bodies to oversee law enforcement. However, those oversight bodies are not all independent or effective. Fair-trial and due-process rights are generally enshrined in constitutions or national legislation. However, ensuring legislated protections, active oversight and recourse to effective remedies appears to be a legitimate concern. Moreover, tensions caused by high poverty levels and limited access to education, justice and social inclusion must be addressed if States are to develop a coherent and effective prevention platform.

2. Addressing enablers

(a) Intent and knowledge

107. States of the subregion have introduced legislation to prevent the commission of crimes at an early stage and prevent the occurrence of a terrorist act. Nine States make it an offence to recruit an individual into a terrorist organization. Mozambique and South Africa have also introduced legislation that makes planning or preparing a terrorist act an offence. Nine States have introduced broader provisions, such as promotion/facilitation, incitement or conspiracy offences, that could also be used to prevent terrorist acts through proactive investigation and prosecution. Some of these provisions could also be applied to cover the requirement to criminalize the offence of travel pursuant to resolution 2178 (2014) but, overall, current frameworks need strengthening.

108. The use of ICT by terrorists and terrorist organizations to recruit, incite, and spread messages is not a major concern for some States of the subregion, in which usage is relatively low. In four States, there is significant usage of the Internet from 40 per cent to 50 per cent. From an investigative and intelligence perspective, the interception of telephone communications remains appropriate in this subregion.

109. The role of the Internet and other forms of ICT should not be ignored, and authorities should continue to be alert to the potential for rapid spread of technology. However, other forums and methods may be more important in

disrupting recruitment, addressing incitement to terrorist acts, and/or containing the spread of knowledge to commit such crimes. Authorities in the subregion are paying increased attention to issues relating to refugees, asylum seekers and irregular migrants, as well as intercommunity tensions. Enhanced dialogue between communities and Government should be considered an essential part of countering violent extremism and terrorism-prevention measures. In situations dominated by economic, social and development issues, Government outreach to non-profit organizations may be an effective way to operationalize countering violent extremism measures.

(b) Means

(i) Financing/freezing of assets

110. Cash continues to be preferred to credit or electronic banking. All States but one have introduced legislation to address terrorism financing. Most may freeze assets, although their mechanisms are largely untested. The non-profit organization sector has, for the most part, not been the subject of any risk assessment or the target of awareness-raising by States. Only South Africa has conducted an assessment of this sector's vulnerability to potential exploitation for terrorist-financing purposes. Systems to control or monitor physical border cash flows remain limited. Five States (Botswana, Lesotho, Namibia, South Africa and Swaziland) are parties to the Southern African Customs Union, which provides for free trade with a common external tariff. Four are members of the Common Monetary Union, which allows for free circulation of the South African rand (except in Botswana).

(ii) Firearms

111. Legislation and infrastructure to regulate small arms and light weapons varies considerably across the subregion. South Africa has a sophisticated regime and two other States have established adequate regimes. The others have outdated, inadequate or incomplete frameworks or no legislation at all in place. The South African Regional Police Chiefs Cooperation Organization SARPCCO has developed a programme to assist with implementation of the 2001 SADC Protocol on Control of Firearms, Ammunition and Other Related Materials. The programme includes proposals for the harmonization of legislation; institutional capacity-building; joint cross-border operations; and disarmament, demobilization, reintegration and development, as well as research; nevertheless, implementation remains uneven.

3. Opportunity and border security

112. The States' focus so far has been on free movement of persons and goods within the subregion in order to facilitate trade and tourism. SADC States have developed the 2005 Protocol on Facilitation of the Movement of Persons, which would, among other things, enable visa-free entry into other Member States. However, the Protocol is not yet in force. States of the subregion are also considering the establishment of a subregional "uni-visa" for persons coming from outside the subregion, based on the SADC 1998 Protocol on the Development of Tourism. Only South Africa has a partial requirement for a transit visa with respect to certain categories of persons. Significant refugee/asylum seeker populations pose challenges in terms of integration and community relations, and encampment. Most

States of the subregion have put in place legislation on refugees and refugee-determination systems, and work closely with UNHCR. It is not clear, however, that existing legislation is sufficient to address the risk that these systems will be abused by suspected terrorists or that officials are sufficiently trained and alert to this issue. Eight States have introduced legislation to address the smuggling/trafficking of persons/terrorists.

113. The ICT capacities of border-management systems are not generally advanced, although law enforcement agencies of all States have some link to INTERPOL. Based on available information, two States have not yet established an information management system to link border checkpoints and provide real-time access to visa and passport information and alerts. This undermines efforts to conduct effective entry risk assessments. In another State, the Department of Immigration continues to operate on a largely paper-based system. Only the international airports are equipped with a computerized processing system and alert list. In South Africa, border points are fully computerized. Where law enforcement agencies are connected to INTERPOL databases, they are not yet fully extended to all border entry/exit points. A few States reported that their traveller data systems contain "watch list" information that is regularly updated with information from INTERPOL. The travel documents of incoming passengers are checked against watch lists, but passenger data are not entered until two to three days after arrival.

4. Bringing terrorists to justice

(a) Planning and preparation

114. The offence of providing a safe haven or harbouring suspected or convicted terrorists exists in eight States. One State's legislation contains general provisions that make it an offence to support, facilitate or counsel a crime. This legislation could be used to prosecute such acts. Two States lack legislation to criminalize terrorist acts. Effective and appropriate implementation of these provisions, without prejudice, could be a powerful preventive tool for States, but it is unknown whether such prosecutions have ever been attempted.

(b) Foreign terrorist fighter travel element

115. Existing legislation does enable the prosecution of some terrorism-related crimes with cross-border dimensions and to some extent the travel targeted by resolution 2178 (2014). In general, where acts are carried out partly within the State in question or involve accused persons with citizenship of, or permanent residency in the prosecuting State, prosecutions are possible. Conspiracy offences, available in nine States, could also enable the prosecution of acts of planning and preparation. Preparatory acts are specifically criminalized in Mozambique, as are attempt, support and facilitation/counselling to commit a crime (which could be used to prosecute the travel element required by resolution 2178 (2104)). Preparation and planning of a terrorist activity is explicitly criminalized in South Africa. Conversely, two States lack legislation to criminalize terrorist acts and one State has not introduced legislation to combat terrorist financing. This lack of legislation complicates mutual legal assistance and extradition.

(c) Capacity to investigate and prosecute

116. Only South Africa has the demonstrated capacity to investigate and prosecute terrorism cases effectively. South Africa also has a resourced, trained specialized prosecution unit, complemented by a specialized police unit, empowered to employ a range of special investigative techniques, including interception of communications, undercover operations, monitoring, special provisions for stop and search of vehicles and persons, among others. The provision for/use of special investigative techniques in most of the subregion is underdeveloped, underused, or lacking. It is also not known to what extent they have been tested by the authorities.

5. Activating international cooperation

(a) Effective mutual legal assistance and extradition

117. SADC Protocols have paved the way for cooperation in mutual legal assistance and extradition. Nevertheless, national requirements for dual criminality, specific arrangements or agreements, or the requirement to be a party to a specific international instrument may limit the ability of States to operationalize these commitments. Seven States are also members of the Commonwealth Network of Contact Persons (Botswana, Lesotho, Malawi, Mozambique, Namibia, South Africa, Zambia), which facilitates international cooperation in criminal cases. It seems, however, that applicable procedures and contact information, or central authorities, are not readily accessible online in most States, with the exception of South Africa, whose legislation enshrines the principle of "extradite or prosecute".

(b) Ensuring effective exchange of information and intelligence

118. With respect to information/intelligence and investigation, memberships in SADC, SARPCCO and INTERPOL provide, in principle, strong frameworks for sharing and cooperation. Pursuant to the Indian Ocean Commission, Madagascar, Mauritius and the Seychelles are also part of a platform to strengthen exchange of information at the judicial, administrative and public security levels, share professional experience and expertise, and coordinate the actions of security personnel. Nevertheless, timely and regular information exchange and the capture of information by State authorities lag behind because of uneven technical and human capacity. Advance passenger information is implemented only by South Africa.

119. It is anticipated that implementation of the subregional counter-terrorism strategy will bring a collective momentum to fully activate mechanisms for international and subregional cooperation, in mutual legal assistance, extradition, and information exchange, including ensuring necessary infrastructure and sufficient and trained capacity. In accordance with the strategy, the preventive agenda should also prioritize efforts to address conditions conducive to terrorism, from a holistic and regional perspective, taking into account the movements of people within the subregion, which must translate commitment in principle to operationalization in practice in order to prevent terrorism from taking root.

West Africa
(Benin, Burkina Faso, Cape Verde, Côte d'Ivoire, Gambia, Ghana, Guinea, Guinea Bissau, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone, Togo)

A. Terrorist and threat environment

1. Trends (including foreign terrorist fighters)

120. West Africa faces a multifaceted terrorist threat, whether in the Sahel, northern Nigeria, or northern Mali, where armed terrorist groups — including AQIM, Ansar Dine and Al-Mourabitoune — engage in trafficking and smuggling and kidnapping for ransom, and seek to forge alliances with rebel groups. The Sahel continues to be destabilized by the situation in Libya and the continuous flow of illicit arms. Although there is no strong evidence of the link between terrorism and organized criminal groups operating in the subregion, the convergence of interests is clear. Military intervention in northern Mali and Sahel has disrupted the capacity of terrorist groups to operate on a large scale. However, the recent occurrence of terrorist incidents, including after the signing of the peace agreement in June 2015, show that terrorist groups remain active. These attacks appeared to be more sophisticated and also involved the use of innovative improvised explosive devices. The Sahel is also a region of destination for foreign terrorist fighters, predominantly from North Africa and Europe, as well as a region of departure for Sahel foreign terrorist fighters seeking to join ISIL in the Syrian Arab Republic and Iraq and Boko Haram in the Lake Chad Basin.

121. In the south of the subregion, the threat posed by Boko Haram has long been underestimated. The threat evolved from a purely domestic issue to a subregional concern involving Niger, Cameroon and Chad. Boko Haram and Al-Mourabitoune have pledged allegiance to ISIL. Since the military intervention by States of the Lake Chad Basin, Boko Haram has been weakened, having lost a significant part of its territory in northern Nigeria. However, it continues its suicide bombings in public spaces through the use of innovative explosive devices often triggered by young children or women. For many years, the fight against terrorism was not a priority area for all States of the subregion. All States of West Africa, particularly those bordering conflict zones, have now gradually taken stock of the scale of the terrorist threat in their own States. There is a growing recognition that security forms an integral part of the subregion's overall development strategy.

2. Risks

122. Political instability, corruption, economic crisis, and low operational capacity make West Africa particularly vulnerable to terrorism. Lengthy and porous State borders represent a particular challenge. The subregion's rich natural resources attract transnational organized criminal groups that fund the operations of terrorist groups within a framework of shifting alliances and interests. The risk that the subregion's natural resources will be exploited and traded to fund terrorism is particularly high in remote areas with limited State authority and easy access to border crossings. Governments are also concerned about risks associated with the proliferation of small arms and light weapons flowing from Libya. Drugs,

commodities and human trafficking are so lucrative and prevalent that they place the overall stability of States at risk and increase vulnerability to terrorism.

3. Priority issues/recommendations

- Enhance cooperative/integrated border management and conduct risk analysis and threat assessments related to borders, including on foreign terrorist fighters
- Make better use of INTERPOL databases. (The INTERPOL I-24/7 system should be extended to main points of entry and INTERPOL databases populated)
- Strengthen capacity to investigate and prosecute terrorism cases
- Strengthen monitoring of cross-border movement of cash for terrorist-financing purposes
- Enhance regulation of money-remittance systems and the non-profit sector to prevent misuse for terrorist-financing purposes
- Develop integrated and comprehensive strategies at the national level to prevent terrorism, violence extremism and the radicalization of local populations
- Strengthen efforts to combat potential misuse of ICT by terrorist groups for propaganda purposes.

B. Areas of assessment

1. From prevention to rehabilitation

(a) Comprehensive counter-terrorism strategies (subregional and national)

123. In 2013, the Economic Community of West African States (ECOWAS) adopted a subregional counter-terrorism strategy and accompanying implementation plan. However, the strategy is still not yet fully operational, owing to lack of dedicated resources for its implementation. Only Nigeria and the Niger have adopted a comprehensive national strategy. The security agenda in the Niger has been integrated into the national development strategy. No State has yet introduced a specific programme to address the issue of foreign terrorist fighters, including their rehabilitation.

(b) Human rights

124. Two States (Mali and Burkina Faso) have set up a National Commission of Inquiry to investigate human rights violations committed by law enforcement agencies. Only one of those units is operational. Nigeria has an independent Human Rights Commission, which is currently investigating violations of human rights by the security forces. Several other States have national human rights institutions but in some cases they are not independent or operational or there is no mechanism or body in place to oversee security forces to prevent or punish possible human rights violations.

125. Most States have used comparatively broad definitions of terrorism in their legislation. This may pose a significant problem when interpreting terrorist conduct in compliance with human rights obligations. Few States have adopted a special law on terrorism, but most have introduced dedicated provisions into their respective criminal codes and codes of criminal procedure. Few States have introduced special procedures for terrorist offences which override those of ordinary law (e.g., expanded powers to arrest or to search premises without a warrant).

126. Although most States have the principles of impartial justice, the presumption of innocence and the guarantee of fair trial enshrined in their respective constitutions, in practice, many detainees, including those in terrorism cases, do not enjoy all their fundamental rights with respect to the duration of their detention before being brought to a judge and the provision of access to a lawyer. In some States, the use of torture has been acknowledged. In States particularly affected by terrorism, custody periods have been extended in terrorism cases. This increases the risk of the detainees being further radicalized while in prison or in detention centres.

127. The Malian and Nigerian crises have driven thousands of refugees into neighbouring States. UNHCR estimates that around 16,000 Nigerian refugees were living in Diffa, the Niger, in July 2015. In response to repeated crises involving significant movement of persons, many West African States have set up national commissions responsible for handling refugees. Most have ratified the 1951 Convention relating to the Status of Refugees (Refugee Convention) and its 1967 Protocol, but not all have clearly established the principle of non-refoulement, including for terrorism cases. In some States (including Mali), persons granted refugee status may be expelled, whether for security reasons or if they are sentenced for acts classified as crimes or misdemeanours.

2. Addressing enablers

(a) Intent and knowledge

128. In West Africa, terrorist recruitment networks are active in areas of conflict and in neighbouring areas. Networks reach out to individuals using financial or ideological incentives. Generally high unemployment rates, dire economic situations, and lack of education among certain categories of the population (particularly among youth) are frequently exploited by recruiters. However, only some States of the subregion criminalize the recruitment of terrorists.

129. Only a few States have introduced provisions, although incomplete, to criminalize incitement to terrorism. This is a matter of concern, in view of the scale of the terrorist threat in the subregion. Internet usage remains low to moderate, but is increasing, particularly in the cities. States of the subregion have no capacity to monitor Internet sites or social media and lack the basic equipment and knowledge to develop plans to prevent abuse of the Internet for terrorist purposes.

(b) Means

(i) Financing/freezing of assets

130. All ECOWAS States are members of the Intergovernmental Action Group against Money Laundering in West Africa (GIABA). The economy of the subregion remains predominantly cash-based, and the average percentage of persons holding bank accounts is lower than 12 per cent. Mechanisms for declaration of cash at

borders should be used to detect possible money-laundering and terrorism financing through close cooperation between customs officers and financial intelligence units. However, such mechanisms are generally inadequate or non-operational and focus mostly on capital flight. Money value transfer systems play a vital role in global money transfers (with Nigeria accounting for a third of Africa's remittances). However, there appears to be a general lack of awareness of the risks to money-remitters operating outside the formal financial system, as well as a lack of money-laundering/terrorist financing risk assessment. According to a typology report issued by GIABA and the Financial Action Task Force in 2013, the non-profit organization sector is being misused by terrorist organizations to channel funds. In view of the current terrorism threat, the non-profit organization sector requires stricter internal controls, enhanced governance policies, and greater financial integrity. Few States have initiated an assessment of the sector in an anti-money-laundering/counter-financing of terrorism context or a review of their related laws. Most States have adopted terrorism-financing legislation. Few States criminalize the financing of an individual terrorist or a terrorist organization for all purposes in accordance with recommendation 5 of the Financial Action Task Force.

131. The West African Economic and Monetary Union adopted in July 2015 a revised anti-money-laundering/counter-financing of terrorism directive, including new uniform legislation for it, which calls upon its member States to complete the legislative process to domesticate the uniform law by January 2016. However, the revised law still contains shortcomings with regard to the criminalization of the terrorism-financing offence and incorporation of Security Council resolutions. In particular, criminalization of the financing of an individual terrorist or an individual organization for any purpose is not adequately covered. Asset-freezing mechanisms are particularly relevant in the context of West Africa, where several terrorist entities (e.g., Boko Haram, AQIM and the Movement for Unity and Jihad in West Africa (MUJAO)) are active. However, few States have adequate systems to freeze terrorist funds without delay.

(ii) Firearms

132. Although most States have made the illegal manufacture, possession, transport and stockpiling of and trade in small arms and light weapons a criminal offence, most do not criminalize the trafficking in or alteration of firearms or the illicit obliteration of their markings. Many laws are outdated and require amendments to take into account the 2006 ECOWAS Convention on Small Arms and Light Weapons, which recently entered into force, and the relevant Protocol to the United Nations Convention against Transnational Organized Crime. This is an area of concern in the context of the flow of weapons, including small arms, flowing from Libya into the subregion.

3. Opportunity and border security

133. Porous borders remain one of most important challenges for States of the subregion. Although several States have adopted laws on the status of foreigners that include penalties and sanctions for those who smuggle and harbour people who have illegally entered into their territories, none specifically stipulates the smuggling of terrorists. Some States have yet to ratify the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime. In order to mitigate the risks of

terrorism, some States have empowered local communities to alert the authorities to movement of suspicious individuals. The Niger has established 400 mixed gendarmerie/national guard patrols, which monitor the entire national territory 24 hours a day, 7 days a week, and village leaders have been provided with the contact numbers of the closest patrols.

134. Several States have adopted systems at main airports to connect INTERPOL databases with existing national border security infrastructure. However, very few of those States have extended the I-24/7 system to land and sea border posts. Moreover, there remains a general lack of coordination and sharing of information among the various border agencies. There are generally no automated systems to store entry and exit information of persons crossing borders and no possibility for various border agencies to access this information either directly or through requests. Some States of the subregion have adopted the Personal Identification Secure Comparison and Evaluation System, which is a border-control database system established with the assistance of the United States to improve States' capacity to detect terrorists and facilitate immigration processing.

135. Few States conduct evidence-based travel risk assessments and there are no units tasked with performing risk profiling at the main international airports or making use of pre-arrival traveller or cargo information. No State has adopted an advance passenger information system. Most States have some measures in place to detect forged travel documents, but lack more advanced equipment and training. Although most States continue to rely on manual systems, a number are currently in the process of updating their civil registry data with a view to enhancing the quality of identity-document production. Mali has established a national pilot commission on the civil registry, with a view to computerizing the system.

136. Unrest in the Sahel and northern Nigeria has produced a major refugee crisis. As at July 2015, there were 1.3 million internally displaced persons (56 per cent of them children) in Nigeria. Some States have a functioning refugee-status determination procedure in place, but it is not clear whether the procedure prevents the granting of asylum to terrorists.

4. Bringing terrorists to justice

(a) Planning and preparation

137. Only a few States have criminalized the organization, planning and preparation of a terrorist act as an autonomous offence. Most rely on accomplice liability for serious crimes. However, in most States, the criminal code or counter-terrorism law does not explicitly provide for the prosecution of preparatory acts to be committed in one State with the aim of committing terrorist acts against other States or their citizens.

(b) Foreign terrorist fighter travel element

138. Few States have taken steps to respond to the requirement of resolution 2178 (2014) to criminalize the travel or facilitation of travel of foreign terrorist fighters, equipment or financing. Some States have criminalized the recruitment, receipt or provision of training, inside or outside the State, to commit acts of terrorism. There is a need for further sensitization on States' obligations pursuant to resolution 2178 (2014).

(c) Capacity to investigate and prosecute

139. Mali, the Niger and Senegal have established in their court systems a specialized counter-terrorism judicial unit that includes a prosecution department and specialized counter-terrorism chambers in the Court of First Instance, the Court of Assizes and the Court of Appeal. In the Niger, around 50 cases are currently being prosecuted, although many individuals remain in detention. The counter-terrorism capacity of most States remains limited, however, owing to lack of resources and specialized training. This is an area where further effort should be made, particularly in States directly affected by terrorism, including Nigeria.

140. Few States use special investigative techniques in investigating terrorism cases or have adopted measures permitting the interception of communications. In 2011, the Niger established the National Counter-Terrorism Office, an integrated law enforcement agency responsible for coordinating, leading and investigating counter-terrorism cases, that has jurisdiction over the entire territory. Given the limited resources of States of the subregion, this integrated approach could be considered a positive model for enhancing counter-terrorism investigations. Consideration should also be given to the integration of counter-terrorism and organized crime investigations, in view of the close link between terrorism and organized crime.

5. Activating international cooperation

(a) Effective mutual legal assistance and extradition

141. Judicial cooperation seems to work fairly well among States sharing languages and legal systems, but is more challenging between neighbouring States with different legal systems. Burkina Faso, Mali, Mauritania and the Niger are founding members of the Judicial Regional Platform of Sahel Countries, which expedites the processing of requests among its member States and facilitates investigations. Specific mutual legal assistance guidelines have also been produced. Senegal is an observer to this mechanism.

142. States have not developed publicly available guidelines on national laws and procedures to facilitate the processing of mutual legal assistance or extradition requests. However, most have designated a central authority responsible for processing both mutual legal assistance and extradition requests. In many States, the Ministry of Justice is empowered with this responsibility. Although some States do not yet have provisions on judicial cooperation in their counter-terrorism laws, most do have such measures in their counter-financing of terrorism legislation (which is, however, limited in scope). Most States are parties to the ECOWAS Conventions on Mutual Legal Assistance and Extradition and can also cooperate within this subregional mutual legal assistance framework. No State of the subregion has yet ratified the 2008 Rabat Convention of French-speaking African Member States on Extradition and Mutual Legal Assistance in Counter-Terrorism which, when in force, will offer a very good tool for effective subregional cooperation.

(b) Ensuring effective exchange of information and intelligence

143. With regard to cooperation among investigators and intelligence officers on counter-terrorism matters, there are existing regional or subregional mechanisms in some States, such as the Committee of Intelligence and Security Services in Africa in Addis Ababa or the Algiers-based Intelligence Fusion Centre, which facilitate the

sharing of information on terrorist groups operating in the subregion. The four Lake Chad Basin Commission States and Benin also cooperate militarily in the context of the Multinational Joint Task Force, which recently established an Intelligence Centre comprising the intelligence services of Benin, Cameroon, Chad, the Niger and Nigeria.

144. At the subregional level, States have entered into specific agreements that deal more with organized crime than with terrorism. One such agreement is the West Africa Joint Operations Initiative, which aims to harmonize drug policies. Three States (Burkina Faso, Ghana and Togo) are party to the trinational agreement on border controls to combat organized crime. In addition, member States of the G5 Sahel (Burkina Faso, Chad, Mali, Mauritania and the Niger) are planning and implementing multilateral military operations to control the border regions. Cooperation within the G5 includes development issues and countering violent extremism. In view of the counter-terrorism situation in the subregion, it is essential to improve operational information-sharing on counter-terrorism matters, particularly in the context of the implementation of the ECOWAS Counter-Terrorism Strategy.

Central Africa
(Angola, Burundi, Cameroon, Cape Verde, Central African Republic, Chad, Democratic Republic of the Congo, Equatorial Guinea, Gabon, Republic of the Congo, Sao Tome and Principe)

A. Terrorist and threat environment

1. Trends (including foreign terrorist fighters)

145. Chad and Cameroon are currently at the forefront of the fight against terrorism. Boko Haram, a terrorist group that originated in West Africa, has carried out repeated attacks over the past two years. Burundi is actively involved in the fight against Al-Shabaab. It has deployed 5,000 troops in Somalia and its assets have been targeted by Al-Shabaab. Other States of the subregion are not yet directly affected by this threat, but recognize that it is spreading to the south. Chad and Cameroon are both States of origin and destination for foreign terrorist fighters seeking to join Boko Haram. Although less active than in the past, the Lord's Resistance Army (a group declared as terrorist by the African Union) has demonstrated the capacity to cross borders illegally and penetrate States of the subregion. AQIM has led the kidnapping of foreigners in Cameroon, Mali, the Niger and Nigeria, especially since 2009. Chad and its border regions are considered vulnerable to the same risk. Also of concern are the reported links between Boko Haram and AQIM elements. Boko Haram is being degraded militarily by the joint actions of Chad, Cameroon, the Niger and Nigeria, which are formalizing their cooperation in the Multinational Joint Task Force. Boko Haram's operational capacities and areas of control are being eroded. However, it has successfully conducted a range of attacks using improvised explosive devices and suicide bombers and is expected continue to be a challenge for the foreseeable future.

2. Risks

146. Most States suffer from porous borders, weak governance, and high poverty levels. The Central African Republic and the Democratic Republic of the Congo both host peacekeeping missions and their Governments have only limited control over their respective territories. The current crisis in the Central African Republic further highlights the risk of radicalization within certain communities. The aftermath of the Libyan crisis has brought an upsurge in the circulation of small arms and ammunition. The resulting resurgence of armed groups could further destabilize the situation. Long-standing local disputes, inter-State rivalries and socioeconomic challenges provide terrorist groups with fertile ground upon which to increase their ranks, spread their messages, and undermine recognized State authorities.

3. Priority issues/recommendations

- Adopt comprehensive counter-terrorism legal provisions that fully incorporate all the offences set forth in the international counter-terrorism instruments to which they are parties, as well as the foreign terrorist fighter-related offences listed in resolutions 1373 (2001), 1624 (2004) and 2178 (2014)
- Adopt comprehensive arms legislation
- Take measures to ensure implementation of the subregional counter-terrorism strategy and combating the proliferation of small arms and light weapons strategy. Address the recruitment by terrorist groups of young boys and girls; put in place rehabilitation programmes; and establish specialized juvenile criminal justice systems to tackle young offenders
- Enact refugee laws.

B. Areas of assessment

1. From prevention to rehabilitation

(a) Comprehensive counter-terrorism strategies (subregional and national)

147. No State has developed a national counter-terrorism strategy. However, in 2015, the States of the subregion adopted a subregional strategy to combat terrorism and the proliferation of small arms and light weapons. The challenge will be in implementing the strategy. There are currently no specific programmes in place for the rehabilitation of former terrorists or foreign terrorist fighters. There are very few initiatives on preventing radicalization and violent extremism.

(b) Human rights

148. Few States have established mechanisms for the oversight of law enforcement agencies, let alone independent and effective mechanisms. Some have set up a human rights commission to monitor human rights violations, but they are not all accredited by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights. Some have criminalized terrorist offences, but the definition of the terrorist offence often lacks the clarity and precision required to exclude acts beyond those envisaged by the international instruments. Only one State has prosecuted terrorist offenders. United Nations

human rights bodies have raised concerns at the use by some States of military tribunals to prosecute terrorism cases. In some States, terrorism-related offences are punishable by death, without regard to the actual seriousness of the acts committed. In some States, the judicial system still lacks very basic elements and the prison system is in such disarray that even the number of prisons and prisoners is unknown. There are also reports of precarious living conditions and overly lengthy pretrial detention periods. In some States, there are doubts as to the independence and impartiality of the judiciary, owing to the lack of an independent mechanism responsible for the recruitment and monitoring of judges, as well as to the many pressures and influences, including from the executive branch, to which judges are subjected.

2. Addressing enablers

(a) Intent and knowledge

149. Only some States specifically criminalize recruitment to commit acts of terrorism or to join a terrorist organization abroad.

150. Only one State criminalizes incitement to commit terrorist offences. Another has introduced legislation that includes a provision to criminalize incitement to ethnic hatred, but does not criminalize incitement to commit a terrorist act. Two States criminalize apology for crimes such as terrorism, but the definitions of the offences are too broad. Boko Haram has increasingly used the Internet and social media platforms to broadcast its propaganda. Although the actual impact of such propaganda campaigns is unknown and many States of the subregion still have a very low Internet penetration rate, its use represents a new challenge for law enforcement authorities that do not appear to be equipped, from a legal, technical or capacity perspective, to prevent and counter the use of ICT for terrorist purposes.

(b) Means

(i) Financing/freezing of assets

151. The economies of Central African States remain essentially cash-based. Money-transfer systems, including licensed money value transfer services, alternative remittance systems and mobile banking, are widely available and inadequately supervised and thus vulnerable to money-laundering and terrorist financing. The Central African Economic and Monetary Community Member States (CEMAC) adopted regulation No. 2/10, of 2 October 2010, amending regulation No. 01/03 on anti-money-laundering and counter-financing of terrorism, which includes a definition of the terrorist offence that conforms to article 2 (1) of the Terrorist Financing Convention. However, the definition does not cover the financing of an individual terrorist or a terrorist organization. In addition, the freezing provisions do not conform to the requirement of resolution 1373 (2001) that assets be frozen without delay. The regulation is currently being revised to conform to resolution 1373 (2001) and the recommendations of the Financial Action Task Force. None of the remaining States criminalizes terrorism financing in accordance with the recommendations of the Task Force. If they do have a freezing mechanism in place, either it does not conform to the Task Force recommendations and resolution 1373 (2001) or implementing regulations have not been adopted.

152. All CEMAC States have created a financial intelligence unit, but only three of them (in Cameroon, Chad and Gabon) are fully operational. All but one of the other (non-CEMAC) States have an financial intelligence unit, but they are not fully operational either. The Action Group against Money Laundering in Central Africa (GABAC) has applied for recognition as a Financial Action Task Force-style regional body. Two States (Burundi and the Democratic Republic of the Congo) do not belong to any such body. Two others (Cape Verde and Sao Tome and Principe) are members of GIABA. GABAC has begun to assess the anti-money-laundering/counter-financing of terrorism framework of its member States. It has also initiated typology exercises on the vulnerability of the real estate sector to money-laundering, as well as the risk of misuse of the non-profit organization sector for terrorism financing and money-laundering. Few cases of terrorist financing have been identified and no CEMAC State has conducted a review of its non-profit organization laws with regard to money-laundering and terrorism financing or an assessment of the risks posed by the sector.

153. CEMAC/Central African Monetary Union regulation 02 of 29 April 2000, establishes an obligation to declare cross-border transportation of currency above a certain amount for persons travelling outside the CEMAC region. Within that region, the free movement of capital applies. Very few of the other States of the subregion have a declaration or disclosure system to detect the illicit physical cross-border transportation of currency at the border.

(ii) Firearms

154. Some States have relatively comprehensive small arms and light weapons legislation in place. The others have outdated legislation that does not cover trafficking, alteration of firearms, or the illicit obliteration of their markings. The 2010 Central African Convention for the Control of Small Arms and Light Weapons, Their Ammunition and All Parts and Components That Can Be Used for Their Manufacture, Repair and Assembly (Kinshasa Convention) (see A/65/517-S/2010/534, annex) is not yet in force because of the lack of sufficient ratification.

3. Opportunity and border security

155. States of the subregion do not have a legal framework in place to prevent the smuggling of terrorists. They also have very limited capacity to effectively control their borders. Efforts have focused on strengthening border controls at international airports. Although some States have introduced a computerized traveller entry and exit management system at international airports, only one of them has connected its airports to the INTERPOL I-24/7 system. Land borders are generally ill-equipped and use a manual, paper-based system. National watch lists and alerts are checked manually. No State has implemented an advance passenger information system at international airports. In August 2015, Burundi and Rwanda police chiefs signed an agreement to use the INTERPOL communications network and databases to strengthen the Rwanda-Burundi border to adequately combat human trafficking and terrorism.

156. All States are parties to the Refugee Convention and its Protocol, but implementation is lacking. Very few States have enacted laws on refugees that embody the principle of non-refoulement and that include provisions to prevent persons involved in terrorist activity from abusing asylum status. However, it is not

clear whether those States have in place an effective refugee-status determination procedure that denies asylum to individuals who have planned, facilitated or participated in a terrorist act.

4. Bringing terrorists to justice

(a) Planning and preparation

157. Only two States criminalize preparation, support and planning of terrorist acts as autonomous offences. However, the definition of a terrorist act is too broad and may therefore be misused to cover acts that are beyond the scope of the international counter-terrorism instruments. In the remainder of the subregion, it is not possible to prosecute any preparatory or accessory acts that are conducted in the State with the aim of committing terrorist acts against other States or their citizens outside the State's territory.

(b) Foreign terrorist fighter travel element

158. States of the subregion have not yet taken any specific steps to respond to the criminalization requirements of resolution 2178 (2014), although two States do have provisions in their counter-terrorism legislation that would enable them to prosecute anyone who recruits or provides training in order to commit acts of terrorism anywhere. Joining a terrorist organization abroad is also an offence if the intent is to commit a terrorist act in the territory of those two States.

(c) Capacity to investigate and prosecute

159. In Central Africa, the capacity of the prosecution to handle complex terrorism cases is very limited. Only Chad has prosecuted terrorist offences and created a Special Criminal Court to handle such cases. Special investigative techniques are provided for in CEMAC regulation 2/10 and include bank account surveillance, access to networks and computers, wiretapping of phone and fax, and audio and video surveillance. However, this is limited to money-laundering and terrorism financing offences only. There appears to be little capacity for law enforcement agencies to use such tools. No State of the subregion has established a specialized investigative unit.

5. Activating international cooperation

(a) Effective mutual legal assistance and extradition

160. Few States have introduced legislation on mutual legal assistance and extradition and instead rely either on bilateral treaties or provisions in their codes of criminal procedure. The CEMAC 2010 regulation includes provisions on mutual legal assistance, but those provisions are limited to terrorism financing. No State has developed publicly available guidelines on domestic laws or procedures relating to mutual legal assistance and extradition, and little information is available on administrative capacity to handle foreign requests. Very few States have set up a central authority responsible for processing extradition and mutual legal assistance requests.

(b) Ensuring effective exchange of information and intelligence

161. States of the subregion have introduced valuable tools, such as the 1999 Police Cooperation Agreement and the Committee of Central African Police Chiefs, which could be used to great effect. Only one State lacks an INTERPOL National Central Bureau. States of the subregion should make full use of INTERPOL databases and notices.

Asia

Pacific Islands
(Fiji, Kiribati, Marshall Islands, Micronesia (Federated States of), Nauru, Palau, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu, Vanuatu)

A. Terrorist and threat environment

1. Trends (including foreign terrorist fighters)

162. The Pacific subregion has strengthened law enforcement measures to combat transnational crime, including drug trafficking, trafficking in persons, and money-laundering. Those measures could be adapted to counter terrorism if necessary. Several initiatives have been undertaken to raise financial institutions' awareness of their reporting requirements pursuant to anti-money-laundering/counter-financing of terrorism legislation.

2. Risks

163. The terrorism risk to States of the Pacific Islands Forum is considered to be low because of their geographic isolation, transport limitations, small size and relatively unsophisticated financial and commercial sectors. There is no current indication that foreign terrorist fighters are being recruited from any of the Pacific Island States or receiving training or other logistical support from the subregion. Nevertheless, the subregion is vulnerable to use as a haven for terrorist activity owing to major resource constraints, which hinder the implementation of required control measures in many areas of counter-terrorism.

3. Priority issues/recommendations

164. Little information is available to determine the overall institutional or operational approach taken by Governments of the subregion with regard to countering terrorism or overseeing counter-terrorism activities. Governments generally appear to regard the terrorism threat as low and consequently devote law enforcement resources primarily to the investigation of other crimes. Nonetheless, Pacific Islands Forum States have made good progress in implementing a variety of counter-terrorism measures in compliance with resolution 1373 (2001). They have enacted counter-terrorism legislation and made efforts to further strengthen subregional coordination and cooperation, especially in the maritime context. It is recommended that States of the Pacific Islands subregion:

- Draft and implement comprehensive and integrated counter-terrorism strategies
- Take measures to prevent and suppress incitement to terrorism and use of the Internet for terrorist purposes
- Improve asset-freezing legislation and its implementation to fully meet the "without delay" requirement of resolution 1373 (2001)
- Take steps to prevent the activities of cash couriers and the illicit cross-border movement of cash and monetary instruments
- Strengthen legislative and practical measures to regulate and control illicit trafficking in small arms and light weapons
- Draft domestic legislation against human smuggling
- Provide front-line border-control and immigration personnel with access to key databases and terrorist watch lists, including INTERPOL I-24/7, red notices, and Al-Qaida sanctions lists, in order to be able to effectively screen persons entering the State for links to terrorist and criminal activity
- Improve national refugee and asylum procedures to comply with international human rights provisions
- Continue to improve the sharing of information and intelligence among national agencies and with international partners.

B. Areas of assessment

1. From prevention to rehabilitation

(a) Comprehensive counter-terrorism strategies (subregional and national)

165. Few States of the subregion have developed comprehensive and integrated counter-terrorism strategies, but several have developed strategies for combating various types of crime. Papua New Guinea has taken steps to create policies and strategies to deal with four major areas — secure supply chains, secure travel, secure finance, secure infrastructure — all of which could be components in a comprehensive and integrated counter-terrorism strategy. Fiji's counter-terrorism strategy, adopted in 2010, is based on three pillars: preparedness, response and recovery.

(b) Human rights

166. Most States of the subregion need to take further steps to enhance law enforcement oversight. Only Vanuatu has an ombudsman's office with substantial investigatory powers. Other States have ombudsman's offices and other civilian authorities that help to maintain control over their national police services and help to ensure that human rights are respected. With regard to the clear definition of terrorist acts in domestic legislation, half the States of the subregion have defined "terrorist acts" in accordance with the international instruments and the other half has either a partial definition or no definition. Most States adhere to the rule of law in trials and strive to ensure that arrest, detention, and judicial processes are fair. For example: the Constitution of the Solomon Islands prohibits arbitrary arrest and

detention and provides for an independent judiciary, the right to a fair public trial, and the presumption of innocence.

2. Addressing enablers

(a) Intent and knowledge

167. Nine States of the subregion criminalize recruitment of a person to be a member of a terrorist group or to participate in a terrorist act.

168. Although some States have criminalized incitement and soliciting the commission of a terrorist offence, most have not introduced stand-alone laws to prevent and suppress incitement to terrorism. Few States have introduced specific legislation on use of the Internet for terrorist purposes.

(b) Means

(i) Financing/freezing of assets

169. Eleven States have criminalized terrorism financing as a stand-alone offence. Three have not yet adopted provisions criminalizing terrorist financing, even if no terrorist act occurs or is attempted, and two have not yet criminalized terrorist financing, even if the funds cannot be linked to a specific terrorist act. Seven States need to enhance domestic legislation to make clear that funding of individual terrorists and terrorist organizations is illegal. No State has fully established and implemented an effective mechanism for freezing assets without delay, as required by resolution 1373 (2001). Several States do, however, have asset-freezing legislation in place, as well as some form of system to freeze suspected terrorist funds. With regard to detection of cash couriers and prevention of illicit physical cross-border transportation of currency, most States, with the exception of Kiribati and Tuvalu, impose currency restrictions on entry and exit and employ some type of cash declaration or disclosure process for persons entering and/or exiting the State. However, these disclosure systems are not in compliance with the relevant Financial Action Task Force recommendations and are not linked to law enforcement agencies or subject to database tracking or broader measures. Further work needs to be undertaken to prevent cash couriers and illicit cash movements across borders. No State has conducted a review of its charitable and non-profit organization sectors for the risk of terrorist financing through such organizations (although the Marshall Islands and the Solomon Islands have reviewed their non-governmental organization sectors for other regulatory purposes).

(ii) Firearms

170. All Pacific Island States have enacted laws to control the manufacture, possession, acquisition, sale, transfer, transport and supply of small arms and ammunition. However, these laws do not include clear provisions on arms brokering, transit of weapons or Security Council arms embargoes. Only Nauru is a signatory to the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime (Firearms Protocol). More effort should be made to implement legislation to control small arms and light weapons and explosives. Only four States have implemented the Programme of

Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (Programme of Action on Small Arms).

3. Opportunity and border security

171. Most States have taken steps to prevent the smuggling of terrorists and to control the flow of persons across borders. Several have fully criminalized the wilful provision of assistance to enable an individual to enter the State in contravention of its entry laws, but five have no provisions in their legislation against human smuggling. As only six of the Pacific Islands States are INTERPOL members, use of the INTERPOL I-24/7 system and its other database tools is limited. Only one INTERPOL member State has expanded available database tools to front-line immigration and border-control authorities. No State has established effective capacity to screen travellers at ports of entry using the Al-Qaida sanctions lists and Red Notices, and none uses an advance passenger information system. There is no information to indicate that States are using electronic immigration systems to record and store traveller data as persons enter and exit borders. States of the subregion need to improve measures to ensure that immigration and border-control personnel have real-time, front-line access to, and are trained in the use of, essential databases, watch lists, and screening tools.

172. For most States of the subregion, asylum seekers, refugees, Stateless persons and internally displaced persons are not priority concerns. However, concerns have been raised at the manner in which Nauru and Papua New Guinea treat asylum seekers processed on behalf of Australia. The Government of Fiji works closely with UNHCR to fulfil its obligations under the Refugee Convention.

173. Several States are parties to the 1951 Convention and its 1967 Protocol. However, several have established no implementing legislation, regulations, or operational framework for refugee-status determination. In the Marshall Islands, for example, people physically present in, or arriving in the Marshall Islands are not eligible to apply for asylum. Most States need to improve their national refugee and asylum procedures and take steps to ensure that asylum status is not be granted to an individual who has planned, facilitated or participated in a terrorist act.

4. Bringing terrorists to justice

(a) Planning and preparation

174. The ability to bring terrorists to justice is essential to the implementation of a functional counter-terrorism strategy. Comprehensive domestic legislation, a capable prosecution, and the ability to conduct investigations are key. However, only Vanuatu has criminalized acts of planning, preparation and supporting of terrorist acts as autonomous offences. Eight States have introduced laws to criminalize planning and preparing terrorist attacks against other States or their citizens outside State territory.

(b) Foreign terrorist fighter travel element

175. No State of this subregion has explicitly criminalized foreign terrorist fighter travel (or attempt thereof) in accordance with resolution 2178 (2014). There is no evidence that citizens of the subregion have travelled to join ISIL or other terrorist groups as foreign terrorist fighters. Some States have introduced legislation that

could be amended to address foreign terrorist fighter travel, but most need to significantly improve their counter-terrorism legislation to effectively implement the foreign terrorist fighter travel restrictions of resolution 2178 (2014).

(c) Capacity to investigate and prosecute

176. There is insufficient information to determine whether the prosecution offices of States of the subregion have the capacity and expertise needed to handle complex terrorism cases. It is also difficult to assess to what degree law enforcement agencies are using special investigative techniques in terrorism cases. In Samoa, certain special investigative techniques (e.g., surveillance and wiretapping) are permitted. However, these techniques are limited to the investigation of organized crime. Papua New Guinea's legislation authorizes only the use of listening devices.

5. Activating international cooperation

(a) Effective mutual legal assistance and extradition

177. All States have set up mutual legal assistance arrangements to facilitate subregional and international cooperation, and all have enacted extradition and mutual legal assistance laws. The lack of available information makes it impossible to determine the scope or number of bilateral and multilateral treaties and arrangements, or the degree of cooperation and coordination. Improvements need to be made with regard to publicizing policies, extradition guidelines and names of contact persons.

(b) Ensuring effective exchange of information and intelligence tools

178. Only half the Member States of this subregion are members of INTERPOL. Pacific Island States typically share information through subregional law enforcement mechanisms. Domestically, law enforcement agencies rely on relevant legislative provisions, memorandums of understanding, and membership in national central bodies for cooperation, coordination and information exchange. Since no State is a member of the Egmont Group, financial intelligence units depend on bilateral and multilateral arrangements for information-sharing. Exchange of information on crime and legislative approaches to combating crime is mostly limited to the subregion and neighbouring jurisdictions and is accomplished largely through subregional bodies, supported by subregional declarations. The Pacific Islands Forum is the main such body.

South-East Asia
(Brunei Darussalam, Cambodia, Indonesia, Lao People's Democratic Republic, Malaysia, Myanmar, Philippines, Singapore, Timor-Leste, Thailand, Viet Nam)

A. Terrorist and threat environment

1. Trends (including foreign terrorist fighters)

179. South-East Asia was a major centre for international terrorism until the first decade of the twenty-first century. However, the capacity of terrorist groups — including the Al-Qaida-related Jemaah Islamiyah (JI) — to commit terrorist acts has

been diminished by a combination of hard and soft countermeasures. No major terrorism incident has occurred since 2009. Recent peace agreements between Governments and separatist groups have also helped to suppress terrorism. The Government of the Philippines concluded a comprehensive peace agreement with the Moro Islamic Liberation Front in March 2014; the Government of Indonesia concluded a peace agreement with the Free Aceh Movement in 2005; and the Government of Myanmar has concluded, and continues to negotiate peace agreements with several ethnic groups. The nature of terrorist attacks has changed from "organized" attacks to "lone-wolf" attacks, and Governments, rather than the public, now tend to be the target. However, the rise of ISIL has brought a new terrorist threat.

180. Six months after the establishment of ISIL, in September 2014, a special South-East Asian military unit called Katibah Nusantara, consisting of mostly Malaysian and Indonesian foreign terrorist fighters, was created inside ISIL. This unit demonstrated its military capability by capturing several Kurd-held territories in Iraq, in April 2015. Katibah Nusantara worked to help ISIL achieve its ambition to make South-East Asia a part of its worldwide caliphate. The number of foreign terrorist fighters from South-East Asia has significantly increased since mid-2014 and links between Katibah Nusantara and experienced foreign terrorist fighter returnees have exacerbated the terrorist threat. Areas such as Poso, Indonesia, are vulnerable to infiltration by ISIL as part of its efforts to expand its activities. It is reported that 209 Indonesians, 80 Malaysians and two Singaporean families are fighting with ISIL. The Government of the Philippines has not officially acknowledged the number of Filipinos fighting in ISIL. Several terrorism plots were thwarted in Malaysia, Indonesia and Singapore in 2015.

181. South-East Asian States may be divided into three categories in terms of their risk for international terrorism. The States most affected by terrorism include Indonesia, Malaysia, Singapore and the Philippines. Although these States have long been a target of JI and ISIL, the terrorist groups active in the Philippines are considered to be more money-oriented than ideological in nature. Cambodia, the Lao People's Democratic Republic and Viet Nam have not suffered from specific international terrorism incidents. The terrorism threat in Myanmar and Thailand has been increasing, owing to conflict between the Muslim and Buddhist populations and refugee issues. Brunei Darussalam and Timor-Leste geographically fall within the envisaged caliphate of JI and ISIL and are alert to the threat.

2. Risks

182. South-East Asia has long been the setting for the trafficking and smuggling of persons abroad, owing to its developing economy and the availability of cheap labour. A considerable number of criminal groups have supplied forged passports to illegal migrants and criminals. At least 20 foreign criminal groups are said to be operating in Bangkok and supplying forged travel documents. Although the security features of travel documents have greatly improved (the machine-readable document is now used by all States), it remains relatively easy to buy counterfeit passports cheaply. Hundreds of counterfeit Turkish passports were seized in the investigation of the Bangkok bombing in August 2015. Two forged passports were used to board Malaysian Airline Flight MH370 in March 2014. This situation facilitates foreign terrorist fighter travel to conflict areas and poses a serious threat to security. Moreover, the Association of Southeast Asian Nations (ASEAN) has

introduced visa exemption to promote tourism and economy and has relaxed pre-screening measures.

183. The two States most affected by terrorism are archipelago States that consist of more than 7,000 and 17,000 islands, respectively. This geographical feature makes border control very difficult, especially with regard to weapons smuggling and terrorist movement. Terrorist groups in South-East Asia are considered to be struggling to raise funds and may attempt to become ISIL affiliates to obtain financial contributions.

3. Priority issues/recommendations

- Review existing counter-terrorism legislation and upgrade it in compliance with the requirements of the relevant Security Council resolutions, especially resolution 2178 (2014), and the 19 international counter-terrorism instruments
- Provide front-line officers, especially immigration officers at border-control points, with direct access to the INTERPOL I-24/7 database, including the Stolen and Lost Travel Document database United Nations Special Notices and other useful notices
- Introduce transit visa requirements at international airports to stem foreign terrorist fighter flow to conflict areas
- Enhance control over travel documents, including on authenticity and the reporting to INTERPOL of stolen and lost travel documents, and introduce penalties for the counterfeiting of travel documents that reflect the seriousness of the crime.
- Improve national mechanisms for the oversight of law enforcement, based on the principles of independence and fairness
- Use the ASEAN Intergovernmental Commission on Human Rights to review potential violations of human rights while countering terrorism
- Review mechanisms for preventive/administrative detention for indefinite periods without criminal charge and introduce appropriate safeguards to enhance protection of human rights from the perspective of due process
- Strengthen use of subregional instruments and mechanisms, including the ASEAN Convention for Counter-Terrorism and Plan of Action and the ASEAN Treaty on Mutual Legal Assistance
- Conclude a subregional agreement on extradition and joint investigations
- Introduce an appropriate refugee-screening system, in cooperation with UNHCR.

B. Areas of assessment

1. From prevention to rehabilitation

(a) Comprehensive counter-terrorism strategies (subregional and national)

184. The States most affected by terrorism have already developed comprehensive counter-terrorism strategies and established a centralized coordinating mechanism

consisting of relevant domestic counter-terrorism agencies. Recognizing that law enforcement measures alone do not work, they employ an approach that combines "hard" law enforcement measures and "soft" measures such as community policing. The ASEAN Convention and Plan of Action, adopted in 2007 and 2009, respectively, do not appear to be effectively utilized. ASEAN is currently establishing a "Political-Security Community" to address subregional conflict and terrorism. The ASEAN Subregional Forum promotes open dialogue on political and security cooperation in the subregion.

185. All South-East Asian States have actively engaged in enhancing dialogue and broadening understanding among civilizations with respect to preventing violent extremism. Most States affected by terrorism have developed successful community-policing programmes. ASEAN recently held a Special Ministerial Meeting on the Rise of Radicalism and Violent Extremism in Kuala Lumpur to share information and exchange good practices.

(b) Human rights

186. Oversight of law enforcement activities is weak in all States. In most States, prosecutors are authorized to oversee activities conducted by law enforcement agencies. The introduction of more independent third-party mechanisms should be considered. ASEAN inaugurated the Intergovernmental Commission on Human Rights in 2009, but does not deal with actual cases of human rights violations. Three States (Brunei Darussalam, Malaysia and Singapore) employ various preventive/administrative measures under their respective Internal Security Acts to prevent terrorist attacks and deter the travel of foreign terrorist fighters. Those measures include detention and restrain orders such as house arrest. The Acts provide for detention of would-be terrorists who pose security threats to the States without criminal charge and/or judicial review for up to two years, with a possibility of indefinite extension (each extension is limited to two years, but there is no limit to the number of extensions). In 2012, Malaysia repealed its Internal Security Act. The new Act revives preventive/administrative detention in terrorism cases. OHCHR has expressed concern about the indefinite detention of persons without sufficient safeguards.

187. All States of the subregion have set up a robust law enforcement apparatus that includes special counter-terrorism units, not only in the police but also in the prosecution service. Indonesia alone arrested more than 1,000 suspected terrorists. One State has set up special kidnapping units in the police and the prosecution and has developed related expertise, such as negotiation skills.

188. Malaysia and Singapore have developed programmes to rehabilitate and reintegrate terrorist inmates into society under the mechanisms of preventive/administrative detention, in cooperation with the private sector, although these approaches have raised human rights concerns. Under new laws introduced in Malaysia, the Ministry of Home Affairs will provide detainees with rehabilitation and de-radicalization programmes at two facilities.

189. Indonesia is co-chair of the Working Group on Detention and Reintegration of the Global Counterterrorism Forum and promotes the Global Counterterrorism Forum Rome Memorandum on Good Practices for Rehabilitation and Reintegration of Violent Extremist Offenders. Indonesia has also developed programmes in

cooperation with religious leaders and communities and introduced special programmes at its centre in Sentul.

2. Addressing enablers

(a) Intent and knowledge

190. Four States — Brunei Darussalam, Cambodia, Malaysia and Singapore — have specifically criminalized the recruitment of persons as members of terrorist groups or to participate in terrorist acts. In Cambodia, training of terrorist groups is also specifically criminalized. Two of the States most affected by terrorism have not yet criminalized recruitment of members to a terrorist group. They rely instead on the offences of abetment to commit terrorist acts or being a member of a terrorist group. This does not fully cover all types of recruitment activity. Recruitment using the Internet and social media has been spreading rapidly in the subregion. Katibah Nusantara functions as a recruiting organ of ISIL for South-East Asia, and spreads propaganda and recruits members via its websites using the Malay and Indonesian languages. Recruitment through social media poses a new challenge for law enforcement and prosecution services, in terms of identifying recruiters and collecting admissible evidence.

191. Governments are required to introduce appropriate measures to regulate social media while protecting freedom of expression. Most States do not criminalize incitement to terrorism and, where it is criminalized, the definitions are generally not specific enough, giving rise to concerns that the laws could be used to suppress freedom of expression. States of the region also face challenges in tackling terrorist propaganda disseminated through the Internet and social media especially if the domains are registered abroad. States should continue to take effective measures to prohibit and prevent incitement to commit terrorist acts, including via the Internet and other social media, while also safeguarding relevant human rights, including the right to freedom of expression, and religion or belief.

(b) Means

(i) Financing/freezing of assets

192. Most States have criminalized terrorism financing in accordance with the International Convention for the Suppression of the Financing of Terrorism. Two of the States most affected by terrorism have already established robust and sound financial systems, including freezing mechanisms. However, the other two States need to strengthen the capacity to freeze without delay. The custom of making anonymous donations to religious non-profit organizations poses a challenge for Governments in terms of monitoring and preventing abuse of such organizations for terrorism-financing purposes.

(ii) Firearms

193. According to the United Nations Regional Centre for Peace and Disarmament in Asia and the Pacific, illicit trafficking in small arms and light weapons remains a considerable problem for the South-East Asia region, where organized crime, the drug trade and smuggling by illicit actors have long been contributing factors. All South-East Asian States have enacted laws to control the manufacture, possession, acquisition, sale, transfer, transport and supply of small arms and ammunition.

However, most do not have clear provisions on arms brokering, transit of weapons or Security Council arms embargoes. Only Cambodia and Lao People's Democratic Republic have ratified the Firearms Protocol. More effort should be made by States of the subregion to implement legislation to control small arms and light weapons and explosives. Only four States have submitted reports to the United Nations Register of Conventional Arms concerning international transfers of small arms and light weapons.

3. Opportunity and border security

194. The subregion's porous borders represent an opportunity for those seeking to smuggle SALW or to facilitate the movement of terrorists. ASEAN is particularly focused on strengthening maritime security, including by promoting coordinated naval and air patrols over the Malacca Strait by Indonesia, Malaysia, Singapore and Thailand.

195. Only three States (including one of the most affected States) utilize advance passenger information systems in screening passengers at international airports. A short-stay visa-free mechanism was introduced in 2006 for citizens of ASEAN States in an effort to promote tourism and economic growth. A number of airports in the subregion serve as hubs for international air travel. States that have not yet done so are strongly encouraged to introduce advance passenger information systems at the earliest opportunity in order to stem the flow of foreign terrorist fighters and other terrorists.

4. Bringing terrorists to justice

(a) Planning and preparation

196. One of the States most affected by terrorism has no specific offence on planning or preparation or a general provision to punish preparatory acts of terrorism.

(b) Foreign terrorist fighter travel element

197. All States but one can punish the financing of foreign terrorist fighter travel. One of the States most affected by terrorism has introduced comprehensive counter-terrorism legislation to combat foreign terrorist fighter travel and the financing of it. Three other most affected States rely on existing criminal offences, which partially cover foreign terrorist fighter acts with a lenient penalty. In one State, a counter-terrorism law aimed at combating the foreign terrorist fighter phenomenon awaits signature. Two others are currently amending their counter-terrorism laws to criminalize foreign terrorist fighter activities. States that use preventive/administrative detention laws tend to use such laws to stem the travel of foreign terrorist fighters, rather than prosecuting them under the criminal justice system.

(c) Capacity to investigate and prosecute

198. All four States most affected by terrorism have suffered terrorist attacks (whether conducted by Afghan foreign terrorist fighter returnees, JI, or the Abu Sayyaf Group (ASG)) and have taken steps to strengthen their prosecutorial capacities. Domestic cooperation between prosecutors and police investigators has also been strengthened. Indonesia alone has already prosecuted more than 700

terrorists. However, most States of the subregion appear to suffer from a shortage of prosecutors. One of the States most affected by terrorism prosecutes terrorism cases without using its counter-terrorism law. It has been attempting to amend the law since its introduction in 2007.

199. The capacity to investigate terrorism cases in all States most affected by terrorism is considered to be high. Three have been working effectively to collect foreign terrorist fighter-related information. In most States of the subregion, interception of communication is possible with judicial authorization. However, only a few States clearly provide for the possibility of undercover operations.

5. Activating international cooperation

(a) Effective mutual legal assistance and extradition

200. All but one State are parties to the Treaty on Mutual Legal Assistance Among Like-Minded ASEAN member States, but the treaty is not widely used. Because ISIL uses social media to recruit foreign terrorist fighters and incite acts of terrorism, prosecution services face difficulties in securing electronic evidence stored abroad. Moreover, there is no subregional agreement on extradition. Two States (including one of the States most affected by terrorism) require a bilateral or multilateral treaty to extradite terrorist suspects. It is recommended that all States of the subregion adopt the principle of reciprocity.

(b) Ensuring effective exchange of information and intelligence

201. The ASEAN Chiefs of Police has shared information stored in its electronic database system (e-ADS) with INTERPOL since 2007. This arrangement also enables law enforcement worldwide to access the e-ADS via INTERPOL I-24/7. However, only one State of the subregion fully utilizes INTERPOL databases at border control points. Even though ad hoc cooperation among South-East Asian States in exchanging information and conducting investigations is generally effective, there is an urgent need to strengthen real-time connectivity with the INTERPOL I-24/7 database at immigration checkpoints.

South Asia (Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan, Sri Lanka)

A. Terrorist and threat environment

1. Trends (including foreign terrorist fighters)

202. Many States of South Asia (including Afghanistan, India and Pakistan) continue to be the victims of major terrorist attacks. India continues to be among the world's consistently targeted States. These attacks represent the continuation of a pattern that began to emerge more than two decades ago and shows no signs of abating. Since the 1990s, India has been the victim of many terrorist attacks linked to individuals who trained or fought with Al-Qaida associates in Pakistan and Afghanistan. A number of terrorist attacks in Pakistan have been conducted by veterans of terrorist networks in Afghanistan. In December 2014, the Taliban attacked a Pakistani military school, killing over 140 people. Most of the victims were students. Afghanistan has continued

to experience aggressive and coordinated attacks by the Afghan Taliban, the Haqqani Network (HQN) and other insurgent and terrorist groups.

2. Risks

203. The Maldives has been targeted by ISIL recruiters. According to the Government, a number of Maldivians travelled to the Syrian Arab Republic in 2014, taking their wives and children with them. In January 2015, at least 15 Maldivians travelled to the Syrian Arab Republic. Four were apprehended in Malaysia. Returning foreign terrorist fighters pose a significant risk for the Maldives, which has a population of only 338,000 people. Other States of the subregion, such as Afghanistan and Pakistan, have historically been more focused on combating entrenched terrorist networks such as Al-Qaida and the Taliban. However, they, too, have recently begun to address the threat posed by foreign terrorist fighters. It is reported that, in 2014, ISIL contacted militants in South Asia with the apparent goal of expanding its influence in the subregion and recruiting fighters to travel to Iraq and the Syrian Arab Republic. The available information suggests that the threat posed by foreign terrorist fighters to the subregion will increase and contribute to the subregion's instability.

3. Priority issues/recommendations

- Engage in more sustained international and subregional legal cooperation. (Member States should ratify the South Asian Association for Regional Cooperation (SAARC) Convention on Mutual Assistance in Criminal Matters)
- Designate a central authority to respond to requests for mutual legal assistance and extradition
- Promote subregional cooperation by ensuring that heads of law enforcement agencies conduct regular meetings to discuss challenges encountered in responding to the foreign terrorist fighter threat and share operational information, good practices, and strategies
- Improve inter-agency information-sharing at the national level. (Special emphasis should be placed on information-sharing among intelligence, law enforcement, border control and financial authorities)
- Take steps to stem the flow of terrorists and foreign terrorist fighters across borders through coordinated management of porous and open borders, incorporating all relevant information and communications technologies, working closely with border communities in order to facilitate knowledge-building, and developing effective subregional cross-border cooperation
- Adopt and implement advance passenger information systems with the support of donor States and specialized agencies and organizations (e.g., the International Civil Aviation Society (ICAO) and the International Air Transport Association)
- In view of the nature and scope of the threat of foreign terrorist fighters and terrorism in general, it is recommended that Governments of the subregion work with civil society, religious authorities and the private sector to weaken the legitimacy and resonance of violent extremist messaging and narratives, including through social media. It is recommended that States work with the

private sector, civil society and religious leaders to develop digital content that discredits violent extremist narratives and promotes positive alternatives.

B. Areas of assessment

1. From prevention to rehabilitation

(a) Comprehensive counter-terrorism strategies (subregional and national)

204. Abuse of the Internet to incite or recruit foreign terrorist fighters is a pressing concern for States of the subregion. Numerous States have taken steps to prohibit recruitment and counter violent extremism in accordance with resolution 1624 (2005). Even though these steps are encouraging, it should be noted that an overly strenuous response by law enforcement in countering recruitment of terrorists and foreign terrorist fighters, in particular through the use of the Internet, may jeopardize such fundamental rights as the freedoms of expression and association. Numerous civil society groups have criticized the 2014 Protection of Pakistan Act.

205. Some States of the subregion (e.g., Bangladesh and the Maldives) have sought to counter the influence of extremist ideology by increasing their engagement with religious leaders and communities. In the Maldives, individuals wishing to serve as imams are subject to State-approved training. In Bangladesh, the Ministry of Education provides oversight for madrassas and is developing a standard national curriculum that includes language, maths, and science. Moreover, secular subjects must be taught in all primary schools up to the eighth grade. The Ministry of Religious Affairs and the National Committee on Militancy Resistance and Prevention work with imams and religious scholars to build public awareness against terrorism. Most States of the subregion have sought the support of civil society groups to understand the challenges they face and explore ways to address them.

(b) Human rights

206. Fair-trial and due-process rights are generally enshrined in national constitutions or legislation, and most States of the subregion have also established national human rights institutions. Further, several States have established bodies to oversee law enforcement. However, United Nations human rights bodies, as well as some civil society organizations, have expressed concerns at heavy-handed law enforcement responses in several States (including confessions coerced through torture), lengthy periods of pretrial detention, lack of access to civilian criminal justice procedures, and the suppression of civil society. Further, pervasive corruption in the criminal justice sector impedes efforts to hold human rights violators accountable for transgressions. Moreover, tensions caused by poverty, low education levels, limited access to justice, and absence of social inclusion must be addressed if States of the subregion are to develop a coherent, effective prevention platform. It is particularly important to implement an inclusive approach that involves key civil society actors.

2. Addressing enablers

(a) Intent and knowledge

207. Around half of the States of the subregion have introduced legislation criminalizing the recruitment of individuals to commit terrorist acts and/or join terrorist organizations. Even in States where some relevant legislation exists (e.g., Bhutan and Sri Lanka), there is no criminalization of the recruitment to terrorist organizations. Some States rely on general criminal law provisions prohibiting participation in a crime to cover recruitment activities. A stand-alone offence would be preferable, in particular in view of the additional obligation of paragraph 6 (c) of resolution 2178 (2014), which makes it mandatory for all United Nations Member States to criminalize the wilful organization, or other facilitation, including acts of recruitment, by their nationals or in their territories, of foreign terrorist fighter travel.

208. Most States have not introduced an autonomous offence criminalizing incitement to commit terrorist acts. In general, they rely on existing offences under the penal code and on subsequent amendments thereto to criminalize incitement. The definitions employed are too broad and may trigger concerns that the prohibitions could be used to suppress freedom of expression. States of the region also face challenges in tackling terrorist propaganda disseminated through the Internet and social media, especially if the domains are registered abroad. States should continue to undertake effective measures to prohibit and prevent incitement to commit terrorist acts, including via the Internet and other social media, while also safeguarding relevant human rights, including the right to freedom of expression and religion or belief.

(b) Means

(i) Financing/freezing of assets

209. The subregion continues to suffer from low levels of compliance with the requirement of resolution 1373 (2001) to freeze terrorist assets "without delay". Even in States that have adopted legislation to authorize competent authorities to freeze assets without delay, implementation of such legislation is weak. Similarly, even where adequate legislation has been enacted to criminalize terrorism financing, the capacity to investigate crimes of terrorism financing, money-laundering, and other complex financial crimes is low throughout the subregion. These gaps are a source of concern and limit the value of recent legislative accomplishments. It is recommended that States of the subregion take urgent steps to close these gaps, with the assistance of donor States.

(ii) Firearms

210. All States of the subregion, except Afghanistan, have introduced legislation prohibiting trafficking in small arms and light weapons. However, trafficking continues to be a problem for the subregion, following decades of armed conflict in Afghanistan, persistent tensions between India and Pakistan over Kashmir, and the legacy of civil war in Nepal and Sri Lanka. The SAARC Regional Convention on Suppression of Terrorism and its Additional Protocol (which entered into force in 1988 and 2006, respectively) provide the basis for a range of subregional cooperation measures that could support efforts to stem the flow of small arms and

light weapons. Article 10 of the Protocol explicitly calls on parties to exchange information "to detect and prevent the international movement of terrorists and trafficking of arms" (albeit "consistent with their respective domestic legal and administrative regimes"). At the 2011 SAARC Conference of Police Officials, the possibility of creating a regional police institution was discussed.

3. Opportunity and border security

211. Legislation on law enforcement and border control is generally weak, particularly in the light of the subregion's many porous borders. There is visa-free travel among numerous States of the subregion, and the border between India and Nepal is completely open. Furthermore, some States (e.g., Nepal and the Maldives) offer visa-upon-arrival for travellers. Foreign terrorist fighters, terrorists and other criminals exploit visa-free arrangements and open borders to adopt evasive travel patterns that can prevent officials from determining where a traveller has been prior to his or her arrival. Furthermore, only one South Asian State (India) currently uses an advance passenger information system. In visa-free or visa-upon-arrival regimes, advance passenger information and passenger name record systems may provide the only meaningful way to identify potential foreign terrorist fighters, terrorists and other criminals. All States of the subregion are urged to implement advance passenger information systems as soon as possible.

4. Bringing terrorists to justice

(a) Planning and preparation

212. Only a few States have criminalized the organization, planning and preparation of terrorist acts as autonomous offences. Most rely on accomplice liability for terrorism and other serious crimes. Pursuant to the SAARC Convention on Suppression of Terrorism, States of the subregion have criminalized aiding, abetting or counselling the commission of offences that are already unlawful due to the adoption and ratification of terrorism-related international conventions by the SAARC States.

(b) Foreign terrorist fighter travel element

213. Few States have taken steps to meet the requirement of resolution 2178 (2014) to criminalize travel or facilitation of travel of foreign terrorist fighters, equipment or financing. Some States have criminalized recruitment to commit acts of terrorism. There is a need for further sensitization concerning the requirements of resolution 2178 (2014).

(c) Capacity to investigate and prosecute

214. South Asian States continue their efforts to fully implement the legal aspects of resolution 1373 (2001) and to address the many legal and law enforcement challenges posed by foreign terrorist fighters and terrorism generally. Throughout the subregion, there are shortfalls in the adoption of comprehensive criminal offences to prosecute preparatory or accessory acts conducted in the State with the aim of committing terrorist acts outside the State's territory. The Counter-Terrorism Committee Executive Directorate has identified addressing these shortfalls as a high priority. There are also specific legislative shortfalls in criminal laws that allow the prosecution of individuals who travel or attempt to travel to a State other than their

States of residence or nationality for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts or the providing or receiving of terrorist training. Few South Asian States have fully criminalized those acts. Pursuant to the SAARC Convention on Suppression of Terrorism, States of the subregion have criminalized aiding, abetting or counselling the commission of offences that are already unlawful due to the adoption and ratification of terrorism-related international conventions by the SAARC States. Implementation of the SAARC Convention, however, is weak.

215. Many States lack the capacity to effectively investigate and prosecute the crimes of terrorism and terrorism financing. Most do not have the ability to rely on forensic evidence (which is critically important in the investigation and prosecution of, inter alia, terrorist bombings) because they either lack forensic laboratories or sufficient human and technical resources to meet all investigative and prosecutorial needs. In many States, there is insufficient coordination and cooperation among police and prosecutors. This has an overall negative impact on the quality of investigations and prosecutions.

5. Activating international cooperation

(a) Effective mutual legal assistance and extradition

216. South Asian States are encouraged to engage in more sustained subregional and international cooperation, both with respect to formal legal cooperation (e.g., mutual legal assistance and extradition) and greater exchange of operational information by law enforcement personnel. Formal and informal cooperation in counter-terrorism have improved over the past five years, but in order to effectively counter the rapidly evolving threats posed by foreign terrorist fighters and terrorists in general, States should continue to enhance and accelerate their international and subregional cooperation, which is a very effective way to prevent recruitment by foreign terrorist fighters and terrorists and to facilitate their arrest and prosecution on various terrorism-related charges. Finally, obtaining mutual legal assistance on a timely basis is essential in order to bring terrorists, foreign terrorist fighters and other criminals to justice. Although all the SAARC States signed a Convention on Mutual Legal Assistance in 2008, the Convention is not yet in effect because it has not been ratified by all of them It is therefore recommended that the Convention be ratified as soon as possible.

(b) Ensuring effective exchange of information and intelligence

217. All States would benefit from strengthening national and subregional information-sharing to counter these gaps. National police agencies should establish regular contact with customs officials, immigration authorities and national intelligence agencies. It is also essential that Governments engage in sustained efforts to cooperate at the subregional and international levels. States should actively utilize information contained in multilateral information systems, such as national and subregional watch lists and INTERPOL diffusion notices and databases, including the foreign terrorist fighter database.

Central Asia and the Caucasus (Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, Uzbekistan)

A. Terrorist and threat environment

1. Trends (including foreign terrorist fighters)

218. Even though Central Asia and South Caucasus are separate geopolitical subregions, they share similar counter-terrorism challenges. Both are rich in natural resources, but are also characterized by fragility, disputed borders, resource conflicts, and transregional threats. Over recent years, most States of the two subregions have witnessed an increase in radicalization and religious extremism. With the exception of Armenia, all States of Central Asia and the Caucasus have been affected by the phenomenon of foreign terrorist fighters, both as States of origin and as transit routes. Estimates of the overall number of nationals of these States currently fighting within terrorist groups in Afghanistan, Iraq, Pakistan and the Syrian Arab Republic vary from one thousand to several thousand. The terrorists are recruited both domestically and from abroad, and some are prominent terrorist leaders. Some have returned to their respective home States and engaged in terrorist activities. A phenomenon that has recently aroused concern is the recruitment of women, especially in Central Asia.

2. Risks

219. The security threats to Central Asia include proximity to conflict areas (including affected areas of Afghanistan and Pakistan), illicit drugs and arms trafficking, and risks associated with large-scale labour migration. Both Central Asia and the Caucasus are affected by unresolved territorial disputes, whether internally or with other neighbouring States. This significantly undermines cooperation. Some States do not control their entire territories. The two subregions share considerable challenges relating to border protection and management, whether because of the difficult terrain or lack of resources. Corruption is also a serious concern in most of these States.

3. Priority issues/recommendations

- Streamline definitions of terrorism offences in compliance with the international counter-terrorism instruments
- Ensure transparency and accountability in counter-terrorism investigations, prosecutions and trials
- Further enhance and strengthen subregional and international mechanisms for cooperation and exchange of information and intelligence
- Address, in collaboration with communities and civil society organizations, the grievances that fuel violent extremism and radicalization, including human rights violations, lack of transparency and corruption, and socio-political alienation.

B. Areas of assessment

1. From prevention to rehabilitation

(a) Comprehensive counter-terrorism strategies (subregional and national)

220. Virtually no State of either subregion has a national comprehensive and integrated counter-terrorism strategy in place. In some States, counter-terrorism matters are covered by national security strategies, or "concepts". In one Central Asian State, these matters are also addressed in a National Strategy of Sustainable Development. Several States are currently in the process of creating or revising counter-terrorism and counter-extremism strategies based on a comprehensive approach that involves all relevant stakeholders and addresses conditions conducive to terrorism. Some States are being assisted by international organizations, including the Organization for Security and Cooperation in Europe (OSCE).

221. Central Asian States have taken steps to address terrorism in a comprehensive and integrated manner through their engagement in a subregional Plan of Action to implement the United Nations Global Counter-Terrorism Strategy. The subregional Plan of Action is intended to address the four pillars of the Global Strategy and could enhance national efforts by Central Asian States in developing comprehensive and integrated counter-terrorism strategy.

(b) Human rights

222. Many States of the two subregions have reacted to the existing or perceived threats with heavy-handed responses, giving rise to concerns about lack of respect for international human rights law. Such measures could also further exacerbate the spread of radicalization and extremism that lead to terrorism. Most States have introduced overly broad, vague and open-ended definitions of terrorist offences that go beyond the offences provided for in the international counter-terrorism instruments and could be used to address non-violent actions considered to entail "socially dangerous consequences" or to "disturb public order". Over recent years, several hundred individuals, both in Central Asia and in the Caucasus, have been tried and convicted of terrorist and extremist crimes based on such definitions. Even though most States' codes of criminal procedure and other relevant laws provide sufficient safeguards and procedural guarantees, United Nations human rights mechanisms have raised concerns at the use of torture, arbitrary detention, lack of access to a defence lawyer, and other fair-trial violations. In addition, some States have adopted legislation that may infringe upon freedom of conscience and freedom of religious organization.

223. In most States, the Office of the Prosecutor-General is vested with oversight powers, including in relation to the legality of actions of the police or national security services. Parliamentary oversight mechanisms or ombudsman's offices, where established, have generally been criticized by United Nations human rights mechanisms for limited powers, lack of resources and lack of independence. In all eight States, counter-terrorism legislation confers expanded powers (including unimpeded access to dwellings and premises and unwarranted searches) on the relevant authorities in the context of counter-terrorism operations. However, none provides for "sunset" clauses other than the termination of the counter-terrorism operation.

2. Addressing enablers

(a) Intent and knowledge

224. In several States, the concept of recruitment of terrorists is included in the definition "terrorist activity" provided for in counter-terrorism laws. Only two of the eight States have explicitly criminalized terrorism recruitment. One Central Asian State has introduced criminal liability for involving a person in committing terrorist crimes. The remaining States rely on more general provisions on accomplice liability and/or on creation of a criminal association, or on provisions criminalizing appeals to commit terrorist acts.

225. All eight States face challenges in tackling terrorist propaganda disseminated through the Internet and social media. Most States have introduced measures authorizing the blocking of websites with content that amounts to incitement of terrorism and violent extremism. However, many of those challenges (e.g., dealing with domains registered abroad, lack of cooperation with the private sector, the ease with which users may open another website under a different domain) remain unresolved. In this regard, most Governments have expressed interest in exchanging experiences and enhancing cooperation.

(b) Means

(i) Financing/freezing of assets

226. All eight States have introduced criminal liability for terrorism financing in a manner that is largely compliant with the requirements of resolution 1373 (2001) and the relevant Financial Action Task Force recommendations. However, no State fully complies with the requirement to freeze terrorist funds without delay. In States where adequate measures have been introduced, there is, as yet, no practical experience to attest to their efficiency. All States have introduced declaration or disclosure systems to detect the illicit physical cross-border transportation of currency, but those systems need to be strengthened. Only one State has conducted an assessment of the terrorist financing risk to its non-profit organization sector. Both the detection of illicit currency flows and preventing abuse of the non-profit organization sector are particularly relevant to tackling the financing of foreign terrorist fighter travel, which affects seven of the eight States.

(ii) Firearms

227. All eight States criminalize illicit manufacturing, storage and trafficking of firearms. However, no State has introduced explicit provisions prohibiting illicit obliteration of their markings, and only half criminalize illicit alteration of firearms.

3. Opportunity and border security

228. Although none of the eight States has in place legislation explicitly targeting the smuggling of terrorists, all criminalize the illegal crossing of protected State borders, including when committed on the basis of preliminary arrangements by a group of persons or organized group. Several States have introduced specific provisions banning foreign citizens or Stateless persons involved in terrorist activity from entering their territories. The smuggling of terrorists can also be punished under provisions on forms of assistance to terrorist activity. With respect to the transit and outflow of foreign terrorist fighters, all States need to update the existing

legislation and operational measures to implement resolution 2178 (2014). In most States, measures restricting travel abroad can only be implemented pursuant to court decisions. One State of Central Asia requires exit visas for citizens wishing to travel abroad. Use of this system has been criticized by United Nations human rights mechanisms.

229. Even though most States' border guard and/or customs services operate automated border-management information systems and are connected to certain national databases, very few are directly connected to the INTERPOL I-24/7 Stolen and Lost Travel Document database and Red Notices of suspected and wanted persons or to United Nations sanctions lists. No State fully implements an advance passenger information system. Most States of the two subregions are working towards implementation of the World Customs Organization (WCO) Framework of Standards to Secure and Facilitate Global Trade. All States need to take measures to further enhance inter-agency cooperation and information exchange at all stages, from risk assessment to detection, interception, and prosecution.

230. Even though most States have legislative provisions in place to prevent persons involved in terrorist activity from abusing asylum protection, there is insufficient information regarding their practical implementation. One State does not have any law specifically dealing with refugee-status determination. All eight States have been subject to criticism by United Nations human rights mechanisms with regard to procedures on movement of persons, including the non-refoulement principle and other procedural safeguards for asylum seekers.

4. Bringing terrorists to justice

231. Most States have recently amended their counter-terrorism and criminal legislation to enhance their response to the terrorist threat[33] and have established jurisdiction over terrorism offences committed by their own nationals, regardless of the location of the offences committed.

(a) Planning and preparation

232. All eight States have introduced general provisions on accomplice liability and preparation for serious crimes into their respective Criminal Codes. These provisions can be used to prosecute planning and preparation of terrorism offences, as can more specific provisions on assistance to terrorism, where applicable. Incitement to terrorism and training for terrorism are criminalized in most States.

(b) Foreign terrorist fighter travel element

233. Only one State has explicitly criminalized foreign terrorist fighter travel (or attempt thereof) as defined in resolution 2178 (2014), but many have introduced amendments to their criminal codes and counter-terrorism legislation to criminalize recruitment, training, financing and other material support for terrorist activity, including abroad. Most States have also criminalized illegal involvement or participation in armed conflicts or military operations abroad, albeit without any explicit reference to terrorist activity. Several States impose criminal sanctions for mercenary-related crimes.

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[33] Concerns related to overly broad definitions of terrorism offences are addressed above in the subsection on Human Rights.

(c) Capacity to investigate and prosecute

234. In most States, preliminary investigations into criminal cases related to terrorism are carried out by national security services. In such cases, the Office of the Prosecutor-General has oversight and/or supervisory powers over the investigations. A wide range of special investigative techniques are available in all States. Conditions of authorization and use vary, depending on several factors. Generally, the most intrusive measures require judicial or prosecutorial authorization. Most States consider that their prosecution offices have sufficient authority, capacity, expertise, technical means and human resources needed to handle terrorism cases. However, most agree on the need for continuous training and exchange of experience with foreign counterparts.

235. Most States have recently had experience in investigating and/or prosecuting their nationals as foreign terrorist fighters. However, since this is a relatively new phenomenon for their criminal justice systems, further adjustments will most likely be required to deal with foreign terrorist fighter cases in full compliance with the rule of law and international human rights law. Such adjustments include responding to evidentiary challenges in relation to proving the intent to join terrorist organizations abroad and establishing elements of terrorist crimes committed in foreign (often uncontrolled) territories.

5. Activating international cooperation

(a) Effective mutual legal assistance and extradition

236. Most States include general provisions on extradition matters in their constitutions. Further details on extradition and mutual legal assistance procedures are typically specified in criminal codes and/or codes of criminal procedure and, in some States, in laws specifically dedicated to international cooperation in criminal matters.

237. All participating States have designated at least one central authority responsible for handling mutual legal assistance and extradition requests. Most typically, this would be the Ministry of Justice or the Office of the Prosecutor-General. In some circumstances, the Ministry of Foreign Affairs is also involved. Most States use more than one competent central authority, depending on whether the request is made at the investigative/pretrial stage or whether the case is before a court or a judgement rendered. Some States have different central authorities for mutual legal assistance and extradition requests, respectively. In some States, the procedures require an intermediary department, which receives and then forwards the requests to the executing agency. The agency would typically be responsible for checking whether the request is supported by the necessary documents and whether supplementary information is needed.

(b) Ensuring effective exchange of information and intelligence

238. A considerable number of subregional databases are available to States of both Central Asia and the Caucasus, including those maintained by the Anti-Terrorism Centre of the Commonwealth of Independent States and Regional Anti-Terrorist Structure of the Shanghai Cooperation Organisation. However, there is no unified and integrated approach. Central Asian States are working cooperatively at enhancing the identification of terrorist groups, collecting, sharing and analysing

information and intelligence, and strengthening access to INTERPOL databases in particular through the INTERPOL Kalkan project.

239. Among other subregional tools, there is an Agreement on Cooperation among the Governments of the Organization for Democracy and Economic Development — GUAM participating States (applicable to Azerbaijan and Georgia) in the field of combating terrorism, organized crime and other dangerous types of crime. National virtual law enforcement centres have been established in GUAM States to facilitate rapid exchange of information through protected channels and direct communications during joint operations. States of the subregion also cooperate with those of the Black Sea Economic Cooperation Organization within the framework of its Agreement on cooperation in combating crime, including a functioning network of liaison officers established by the additional protocol to that agreement.

Western Asia (Bahrain, Iran (Islamic Republic of), Iraq, Jordan, Kuwait, Lebanon, Oman, Qatar, Saudi Arabia, Syrian Arab Republic, United Arab Emirates, Yemen)

A. Terrorist and threat environment

1. Trends (including foreign terrorist fighters)

240. Several States of the subregion have undergone significant political transitions since 2011. Few States have endured prolonged conflict over recent years, but some have suffered considerably from terrorist activity. Terrorists are recruited both domestically and from abroad. The ISIL capture of Mosul in Iraq, in June 2014, marked the beginning of a new phase of insecurity and instability. The threat posed by ISIL remains high, especially as it continues to profit from trafficking in arms, persons and artefacts; the illicit trade in natural resources, including oil; and kidnapping for ransom. States of the subregion are also among those most affected by the foreign terrorist fighter phenomenon. The greatest concentrations of such fighters are found in Iraq and the Syrian Arab Republic, with smaller numbers present in Yemen. Their presence helps to fuel sectarianism and increases the intensity, duration and complexity of conflict in the region.

2. Risks

241. Proximity to the conflict in the Syrian Arab Republic and the activities of various terrorist organizations greatly exacerbate the terrorist risk to Western Asia. The continuous displacement of people from Iraq and the Syrian Arab Republic is also giving rise to cross-border security concerns and significant political and economic tensions for Member States located in the immediate vicinity of conflict zones. The porous and lengthy nature of many land borders and border-control weaknesses also continue to increase the subregion's vulnerability. Most States have tended to focus too narrowly on law enforcement measures in their overall counter-terrorism strategies. This approach can be effective to a degree, but does not include other preventive measures needed to address terrorist recruitment via the Internet and social media.

3. Priority issues/recommendations

- Adopt national comprehensive and integrated counter-terrorism strategies that engage stakeholders other than law enforcement and Government agencies
- Review legal frameworks in order to ensure criminalization of terrorist offences (including recruitment and training of terrorists and incitement to commit terrorist acts) in accordance with the offences of the international counter-terrorism instruments
- Enhance cooperation with other States in criminal matters
- Strengthen legal, institutional and practical regimes on counter-financing of terrorism and money-laundering
- Continue to strengthen investment in tools and equipment for monitoring and surveying borders, preventing forgery of travel and identity documents, and consider issuing biometric travel documents
- Further cooperate with INTERPOL and encourage National Central Bureaux to make full use of the relevant databases (including the Al-Qabdah database)
- Strengthen legal measures aimed at ensuring effective monitoring of the Internet, while protecting freedom of speech and expression
- Develop and implement counter-radicalization strategies that take into consideration the roles of civil society and the private sector.

B. Areas of assessment

1. From prevention to rehabilitation

(a) Comprehensive counter-terrorism strategies (subregional and national)

242. No State of the subregion appears to have introduced a national comprehensive and integrated counter-terrorism strategy that engages all stakeholders in the society beyond law enforcement and Governmental agencies. Instead, States of the subregion often rely on existing sectorial strategies and law enforcement action plans to address the terrorist threat. There are often multiple counter-terrorism mechanisms and structures, each of which operates under a different entity. This creates the potential for duplication and overlap of efforts and thus undermines the effectiveness of national counter-terrorism efforts. Counter-terrorism strategies are often primarily focused on law enforcement and intelligence. The involvement of other sectors of society, including academia, the media, the private sector and non-governmental organizations would help to enhance the resilience of the population to terrorism.

243. In 1997, the League of Arab States, through its Council of Arab Ministers of the Interior, approved a joint counter-terrorism strategy under which its member States made a commitment to increase intelligence-sharing, tighten border controls and restrict fundraising that could be channelled to terrorist groups. However, implementation of the strategy has been limited.

(b) Human rights

244. Some States' counter-terrorism laws still lack the clarity and precision required to ensure that such laws are not used in violation of the rights to freedom of expression, opinion, belief or association. Most of those freedoms are enshrined in the constitutions of almost all States of the subregion. Safeguards to fair trial and due process are also reflected in codes of criminal procedure. However, United Nations human rights mechanisms have raised concerns about practical implementation of such safeguards. Furthermore, the rapid expansion of terrorist activity in Western Asia has induced many States to implement robust measures, often without adequate oversight. States will therefore need to address human rights concerns in the light of their obligations under international law, including human rights law, while countering terrorism.

245. States of the subregion also need to strengthen measures to address refugee flows and compliance with international refugee law and the relevant provisions of resolutions 1373 (2001), 1624 (2005) and 2178 (2014). Ratification of the 1951 Convention relating to the Status of Refugees and its 1967 Protocol is low in the subregion. The current conflict in the Syrian Arab Republic has increased the number of refugees and asylum seekers crossing borders and increased the number of internally displaced persons. Most States lack effective mechanisms to manage these complex situations and face major challenges in identifying and protecting refugees while also preventing the entry into their territories of individuals involved in terrorist acts.

2. Addressing enablers

(a) Intent and knowledge

246. Few States have explicitly criminalized terrorism recruitment in their legislation. The remaining States rely on general provisions in the criminal code criminalizing an accomplice through the provision of training in making explosives, weapons or in any other warfare technique, or through facilitating communication between members of terrorist organizations and other individuals for the purpose of assisting a terrorist organization. Various forms of participation and general criminal provisions on complicity also serve, in some States, to criminalize recruitment.

247. Most States do not have a national strategy to prevent and suppress the recruitment for the purpose of engaging in terrorist activities. Most States rely primarily on law enforcement efforts, without rendering similar attention to other sectors in society that could assist in the prevention of recruitment, such as academia, media, civil society and so forth, which only exacerbates the tensions and facilitates the potential recruitment of individuals.

248. Most States of the subregion have expressed concern over the use of information networks and technologies for the dissemination of terrorist propaganda and/or training material. This is reflected in the introduction of recent pieces of legislation and regulations on cybercrime and/or the abuse of the Internet for terrorist purposes in several States of the subregion. Although this represents a step forward in adopting a legal framework to govern the use of information technologies, much more attention should be given to the balance between such regulative regimes, on the one hand, and the need to safeguard relevant human rights, including the right to freedom of expression, on the other.

249. Many States lack adequate capacities to use legal measures in implementing the "prevention" aspect of resolution 1373 (2001), for example, by monitoring communications through special investigative techniques. Incitement to commit terrorist attacks is not criminalized as an autonomous offence in most States. Instead, States rely on the criminalization of incitement to commit crime in general. States of the subregion should engage more effectively with civil society groups in the development and implementation of strategies against incitement to commit terrorist acts.

(b) Means

(i) Financing/freezing of assets

250. The rise of ISIL has raised critical questions about how terrorist organizations acquire funds and whether States of the subregion have adequate legal, institutional and practical measures in place to prevent and disrupt financial flows to terrorist groups. All States of the subregion have already introduced a definition of the financing of terrorism, but not all definitions are fully compliant with the international standards (e.g., most do not criminalize the financing of individual terrorists). Limited information is available on measures undertaken by States of the subregion to implement the various provisions of resolution 2199 (2015) effectively.

251. According to the assessment reports of the Middle East and North Africa Financial Action Task Force, no State of the subregion is fully compliant with the requirement to freeze terrorist funds without delay, pursuant to the requirements of resolution 1373 (2001). In addition, most States of the Gulf subregion have recently introduced measures aimed at freezing assets in accordance with resolution 1373 (2001), but available information on statistics indicates that much needs to be done in the area of practical implementation.

252. In view of the porous borders and the lack of effective controls and State oversight over the movement of persons and cash through borders of the subregion — especially between Iraq and the Syrian Arab Republic — many States do not effectively identify and prevent the illicit cross-border movement of cash, which is one of the main methods used to finance terrorism in the subregion, including activities of foreign terrorist fighters. Among the key gaps hampering the efforts of States of the subregion to disrupt the flow of funds is the inadequate sharing of comprehensive and timely information among law enforcement agencies and intelligence partners concerning financial flows that bypass financial institutions. There is currently no subregional platform or network throughout Western Asia that would facilitate such exchange.

(ii) Firearms

253. Many States have enacted legislation to regulate the possession and use of arms, but a limited number of these States have explicit provisions regarding the manufacturing, storage, illicit obliteration of their markings or illicit alteration of firearms. States of the subregion have often justified the lack of legislation by the fact that they were not manufacturers of firearms.

3. Opportunity and border security

254. No State has explicitly criminalized the smuggling of terrorists into its territory. States rely instead on general provisions criminalizing illicit entry across their borders. Several States are working to integrate border management operational functions for more effective controls. Gulf States have introduced advanced measures, including technology, to protect their borders. A few States have introduced administrative measures, such as retention of passports, to prevent individuals from travelling abroad to join terrorist organizations. Most States have adequate measures in place to ensure that front-line officers tasked with regulating the movement of persons across borders are provided with updated information to conduct effective evidence-based travel risk assessment and screenings to help to identify suspected terrorists. States should also strengthen their use of the INTERPOL I-24/7 global communications system. Porous borders remain a concern for several States of the subregion. Monitoring such vast open spaces requires significant resources. In some areas, States have embarked on projects to fence off border sections that are at high risk of infiltration. There is a need to explore further opportunities in conducting joint patrols between neighbouring States. In some States, additional capacities and resources are needed in order to monitor the borders, conduct surveillance and illegal cross-border movements. Of greatest concern in this regard are the open border areas between the Syrian Arab Republic and Iraq, which are currently under de facto ISIL control.

4. Bringing terrorists to justice

(a) Planning and preparation

255. All States of the subregion use existing general provisions to criminalize complicity and preparation as serious crimes. Some also criminalize the attempt to commit a serious offence. Very few States have introduced specific provisions on the planning and preparation of terrorism-related offences.

(b) Foreign terrorist fighter travel element

256. Despite the experience of many States in dealing with "Arab Afghan" returnees in the aftermath of the war in Afghanistan, very few have explicitly criminalized outbound foreign terrorist fighter travel (or attempt thereof) pursuant to resolution 2178 (2014). Few States have amended their counter-terrorism legislation to criminalize the act of joining a foreign group for combat purposes. Some States of the subregion believe that current domestic legislation criminalizing recruitment, training, financing and other material support of terrorist activity, including abroad, is sufficient to cover acts relating to foreign terrorist fighters. However, given the proximity of States of the subregion to the conflict zone in the Syrian Arab Republic, legislators should give special consideration to the enactment of legislation to prevent foreign terrorist fighter travel in accordance with the requirements of resolution 2178 (2014).

(c) Capacity to investigate and prosecute

257. Law enforcement authorities handle most preliminary investigations in terrorism-related cases in all States of the subregion. The Public Prosecutor often has an oversight and/or supervisory role, but few States of the subregion have empowered the Prosecutor with the necessary tools to ensure proper oversight of

law enforcement activity. There is a disparity with regard to actual practice in prosecuting terrorism cases. In addition, because few Gulf States have suffered terrorist attacks, they have not prosecuted many terrorist cases. States of the subregion have requested further training for judges and prosecutors in the prosecution of terrorism-related cases, in view of the increasing sophistication of crimes related to terrorism and the transnational nature of the offences.

5. Activating international cooperation

(a) Effective mutual legal assistance and extradition

258. Very few States have designated a central authority responsible for mutual legal assistance and extradition requests. States often handle requests through the Ministry of Justice and the Ministry of Foreign Affairs, creating possible confusion regarding the central authority for mutual legal assistance. The absence of a well-defined central authority may hamper expeditious cooperation in criminal matters in urgent cases. The number of bilateral treaties on cooperation among States of the subregion remains limited. Some States face challenges in requesting mutual legal assistance from States of other regions. This may be because of the lack of translated materials or the lack of technical capacity. Many States also note that foreign jurisdictions remain reluctant to cooperate with them, especially since many retain the death penalty for serious crimes, including terrorism-related offences. The League of Arab States has established the Arab Judicial Network to enhance subregional cooperation on criminal matters, but not all States of the subregion have appointed a focal point.

(b) Ensuring effective exchange of information and intelligence

259. Most States have established a capable INTERPOL National Central Bureau. However, the extent to which the National Central Bureaux use INTERPOL tools and services varies. Several States have extended the INTERPOL I-24/7 database to front-line officers at official border crossings. However, it is not clear to what extent States of the subregion populate INTERPOL databases through their respective National Central Bureaux. States of the subregion should also actively contribute to the INTERPOL "Al-Qabdah" project, which enables States to access the INTERPOL database on terrorists and terrorist groups active in the subregion. The system also facilitates interception of transiting foreign terrorist fighters and enhances subregional and international efforts to stem their flow.

260. At the subregional level, the Gulf States appear to cooperate within the framework of the Gulf Cooperation Council, especially in sharing information and intelligence. The six members of the Council use an advance passenger information system. Apart from bilateral arrangements, the remaining States do not have a subregional platform that would allow for effective and expeditious exchange of information.

East Asia (China, Democratic People's Republic of Korea, Japan, Mongolia, Republic of Korea)

A. Terrorist and threat environment

1. Trends (including foreign terrorist fighters)

261. North-East Asian nationals have been recruited by terrorist organizations and a number of East Asian nationals have lost their lives in terrorist attacks carried out abroad. States of the subregion should therefore strengthen their counter-terrorism capacities and increase the scope of bilateral and multilateral cooperation and information-sharing. The subregion was believed to be largely untouched by the conflicts in Iraq and the Syrian Arab Republic, but social media posts indicate that ISIL has recruited individuals as foreign terrorist fighters. A number of these recruitments occurred through the Internet. In view of the sophistication of the subregion's technological infrastructure, there are concerns that more young people may become victims of recruitment.

2. Risks

262. East Asia will face a heightened security challenge over the next few years, owing to an expected increase in passenger traffic and tourism. All three Olympic events immediately following the 2016 Summer Olympics in Rio de Janeiro will take place in the subregion.

263. Even though the subregion has recent experience in hosting international sporting events (China hosted the 2008 Olympic and Paralympic Games in Beijing, and Japan and the Republic of Korea co-hosted the 2002 FIFA World Cup), the subregion must continue to strengthen border security and cooperation in order to address the heightened security risk deriving from the evolving terrorist threats. States will need to facilitate the travel of Olympic athletes, officials and fans and ensure that border officials take security concerns fully into account. There is considerable room for improvement in cooperation and information-sharing among the East Asian States.

3. Priority issues/recommendations

- Adopt good practices aimed at expediting the movement of people, while also maintaining border security, including through the use of emerging technologies to identify potential terrorist suspects
- Strengthen national and international inter-agency coordination in order to enhance the ability of counter-terrorism practitioners to identify common needs and solutions
- Increase ratification of the international counter-terrorism instruments
- Take steps to ensure that legislative and administrative practices are compatible with international human rights law standards
- Strengthen efforts to harmonize legislative frameworks, information-sharing and operational measures, including through the establishment of subregional mechanisms.

B. Areas of assessment

1. From prevention to rehabilitation

(a) Comprehensive counter-terrorism strategies (subregional and national)

264. Japan has implemented a comprehensive, multifaceted counter-terrorism strategy that integrates security operations, diplomatic outreach, economic development and social inclusion. Its "Overview of International Counter-Terrorism Cooperation in 2010" addresses countering violent extremism efforts by providing for assistance with economic and educational reform in developing States and the facilitation of interfaith dialogue among civilizations.

265. China's draft counter-terrorism law reflects a multidimensional approach that integrates administrative, judicial and military measures with a strong emphasis on prevention. The Counter-Terrorism Committee Executive Directorate is not aware of other States of East Asia that have enacted a national counter-terrorism strategy. The lack of national strategies may hamper efforts to develop a subregional counter-terrorism strategy and strengthen strategic coordination.

(b) Human rights

266. The Counter-Terrorism Committee Executive Directorate is not aware of any foreign terrorist fighter or terrorist rehabilitation measures adopted by States of the subregion. Legal reforms have recently been introduced by some States to incorporate the offences of the international counter-terrorism instruments, but additional steps should be taken to ensure that legislative and administrative practices are compatible with international human rights law and strengthen subregional harmonization. The establishment of a subregional mechanism might facilitate greater cooperation and capacity-building.

2. Addressing enablers

(a) Intent and knowledge

Recruitment

267. Only the Democratic People's Republic of Korea has enacted legislation that specifically criminalizes recruitment. Other States rely on general counter-terrorism legislation.

(b) Means

(i) Financing/freezing of assets

268. The responses of East Asian States indicate a high level of compliance with international standards on counter-financing of terrorism. Regulatory frameworks and institutional capacities are generally strong. Almost every State is a member of the Asia Pacific Group on Money Laundering (APG) and three are also members of the Financial Action Task Force. The Democratic People's Republic of Korea recently became an observer to APG and is currently introducing a range of measures to meet the requirements of the Task Force.

269. The Republic of Korea introduced a legislative amendment requiring implementation of all international treaties and resolutions related to counter-

financing of terrorism in accordance with resolution 1373 (2001). Japan and the Republic of Korea criminalize terrorist financing as a stand-alone offence. No State of the subregion is considered to have the necessary framework in place to freeze terrorist funds without delay.

270. Some States have met the anti-money-laundering/counter-financing of terrorism standard requiring that cash transactions above a specific threshold be reported. China, Japan and the Republic of Korea have established a declaration system to detect cross-border transportations of cash exceeding prescribed thresholds. All five States require that passengers complete customs declaration forms. Effective enforcement of anti-money-laundering/counter-financing of terrorism regulations has been a challenge, however. The subregion's reliance on informal and cash-based transactions has impeded the systematic reporting of cross-border currency transactions. Furthermore, the subregion's preference for alternate remittance systems that leave no "paper trail" renders it particularly vulnerable to exploitation by perpetrators of terrorist financing. Only the Republic of Korea has conducted an assessment of the terrorism-financing risk to its non-profit sector.

(ii) Firearms

271. All States have introduced legislation largely or partially criminalizing the illicit manufacturing, trafficking or alteration of firearms and the illicit obliteration of their markings.

3. Opportunity and border security

272. Most States ensure a high level of border security. China, the Democratic People's Republic of Korea, Japan and the Republic of Korea have introduced legislation that can be utilized to criminalize the smuggling of terrorists. However, the severity of the applicable penalties varies. Some States' immigration screening systems are connected to the INTERPOL Stolen and Lost Document database and the United Nations Al-Qaida sanctions list. All five States record the entry/exit of persons crossing their borders. No airport of the subregion is believed to be frequented by foreign terrorist fighters as a starting destination or transit point for travel to and from Iraq or the Syrian Arab Republic.

4. Bringing terrorists to justice

(a) Planning and preparation

273. Japan has introduced specific criminal legislation to prosecute the planning, preparation or support of terrorist acts as autonomous offences, in accordance with the 13 international counter-terrorism instruments to which it is a party. Mongolia criminalizes preparation and instigation to commit a crime as an autonomous offence, but this offence is not specific to acts of terrorism.

(b) Foreign terrorist fighter travel element

274. The Counter-Terrorism Committee Executive Directorate is not aware of any legislation introduced specifically to address the challenge of foreign terrorist fighters, reflecting the relatively low level of threat posed by them to the subregion.

(c) Capacity to investigate and prosecute

275. With the exception of Japan, States of the subregion have not established comprehensive criminal offences to prosecute preparatory or accessory acts conducted with the aim of committing terrorist acts against other States or their citizens outside the State's territory. Legal authorities therefore use general criminal statutes for suspected terrorism cases. The general lack of specific criminal statutes pertaining to terrorism may reflect the relatively low level of terrorist activity in the subregion.

276. All States have introduced legislation authorizing the use of special investigative techniques (e.g., electronic surveillance, wiretapping, and undercover operations). Some States, however, allow for a considerable amount of discretion in their application and may not guarantee sufficient oversight in preventing human rights violations.

5. Activating international cooperation

(a) Effective mutual legal assistance and extradition

277. Because diplomatic channels are traditionally used to transmit mutual legal assistance requests, the process is often slow and frequently interrupted. However, States have made significant progress in recent years to utilize central authorities to facilitate their mutual legal assistance cooperation. Around half the States of the subregion have designated a national central authority for processing mutual legal assistance and extradition requests. In the case of Japan, the Ministry of Justice or the National Police Agency may transmit requests to central authorities, but only the Ministry of Justice can receive them.

278. However, with the exception of Japan, States of the subregion (including States that have designated a central authority) do not publish readily accessible public guidelines on procedures relating to mutual legal assistance and extradition.

(b) Ensuring effective exchange of information and intelligence

279. Some States have developed initiatives to facilitate direct and timely contact at the practitioner level. The Republic of Korea's legislation specifically empowers the country's financial intelligence unit to exchange information with foreign counterparts. China's draft counter-terrorism legislation includes proposals to establish a counter-terrorism intelligence centre, with a view to enhancing the sharing of information.

Latin America

Central America
(Belize, Costa Rica, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama)

A. Terrorist and threat environment

1. Trends (including foreign terrorist fighters)

280. Central American States have continued to strengthen their counter-terrorism efforts, primarily within the framework of the Inter-American Committee on Terrorism, including in the areas of border security, preventing terrorist financing, law enforcement, and sharing of counter-terrorism intelligence and information. The Committee has engaged States in a wide range of capacity-building and training programmes, including on border controls (maritime and aviation security, customs, and immigration), critical infrastructure protection (cybersecurity, major events security, and tourism security), counter-terrorism legislative assistance and combating terrorism financing, and strengthening strategies to address emerging terrorist threats. In March 2011, States of the subregion issued a declaration renewing their commitment to enhancing cooperation to prevent, combat, and eliminate terrorism. States have focused on efforts to strengthen cybersecurity in the Americas and adopted a resolution on strengthening cooperation to address terrorism financing and money-laundering. They are also focusing on ways to counter criminal activities (e.g., money-laundering and trafficking in drugs, arms, and people) that may exacerbate the threat of terrorism and way to strengthen criminal-justice responses to acts of terrorism.

2. Risks

281. The threat of terrorism in Central America remains low, overall. Although several Governments have made notable improvements in their counter-terrorism capacities, corruption, weak Government institutions, insufficient inter-agency cooperation, weak legislation, and lack of resources continue to impede progress elsewhere. The violent activities of drug-trafficking organizations continue to cause significant concern. The emergence of powerful organized crime groups and drug cartels has brought an upsurge in violence, corruption, impunity, erosion of rule of law, and human rights violations. Central America is the location of some of the world's most dangerous cities. However, there is no evidence that criminal organizations may be adopting terrorist tactics or that they have political or ideological motivations. Moreover, no known international terrorist organization is currently operating in Central America. However, the perception that the terrorist threat is low increases its vulnerability to foreign terrorist fighter recruitment, financing, and other logistical support to them.

3. Priority issues/recommendations

- Implement comprehensive and integrated national counter-terrorism strategies
- Implement effective, independent law enforcement oversight mechanisms
- Adopt a clear definition of terrorist acts

- Guarantee respect for the rule of law
- Strengthen the efficiency of the judiciary
- Criminalize the recruitment of members of terrorist groups and acts of planning, preparation and supporting of terrorist acts
- Strengthen legislative and practical measures to regulate and control illicit trafficking in small arms and light weapons
- Continue to improve border-control measures in order to increase effectiveness in preventing and detecting illicit cross-border activity, especially illicit cash movement
- Strengthen asset-freezing legislation in order to meet the relevant requirements of resolution 1373 (2001)
- Strengthen immigration procedures in order to guarantee full access to relevant databases and terrorist watch lists, especially foreign terrorist fighter databases.

B. Areas of assessment

1. From prevention to rehabilitation

(a) Comprehensive counter-terrorism strategies (subregional and national)

282. Although no Central American State has introduced a comprehensive and integrated counter-terrorism strategy, some are making an effort to develop both national strategies and a subregional strategy. Some have sought to foster subregional and international cooperation in counter-terrorism by improving inter-agency intelligence cooperation. Panama has established the Coordination Council for the Fight against International Terrorism, which is responsible for ensuring compliance with the international counter-terrorism instruments and the relevant decisions and resolutions of the General Assembly and the Security Council.

(b) Human rights

283. Few States have established substantial law enforcement oversight capacity. There is no uniform, coherent legal framework for the definition of "terrorist acts" and most States lack a clear and precise definition. In some cases, the definition is broader than that required by the international instruments. In others, national legislation provides for no definition at all. Although all Central American States enshrine respect for the rule of law in their constitutions and laws, several do not sufficiently guarantee it in practice. In particular, detainees are often denied prompt access to a lawyer and the right to be brought before a judge without delay. The judiciary is sometimes inadequately equipped or undermined by corruption; intimidation of judges, prosecutors and witnesses; and delays in the administration of justice. Central American States have not adopted special laws that confer specific powers on certain authorities to counter terrorism. Only El Salvador applies exceptional criminal procedures in terrorism offences, but none of its provisions is subject to a sunset clause.

2. Addressing enablers

(a) Intent and knowledge

284. Only Costa Rica has introduced legislative provisions criminalizing the recruitment of terrorists. Other States criminalize recruitment under more general provisions on the offence of abetting to commit terrorists acts or the offence of illegal association.

285. Few States of the subregion have introduced legislation criminalizing incitement to commit an act of terrorism. Some have established an offence of abetting, inciting or inviting the commission of a crime, but none has introduced a stand-alone law to prevent and suppress incitement to terrorism. No State has introduced legislation on abuse of the Internet for terrorist purposes.

(b) Means

(i) Financing/freezing of assets

286. The subregion has made some progress in complying with the terrorism-financing aspects of resolution 1373 (2001). Mexico and all but two Central American States belong to either the Financial Action Task Force of Latin America or the Caribbean Financial Action Task Force. Only one State is not a member of the Egmont Group. Moreover, most Central American States have ratified the International Convention for the Suppression of the Financing of Terrorism and adopted anti-money-laundering/counter-financing of terrorism legislation establishing terrorism financing as a stand-alone offence. They criminalize terrorism financing even if the funds have not been used to commit, or attempt to commit a terrorist attack and if the funds cannot be linked to a specific terrorist attack.

287. All States have introduced a specific terrorism-financing offence that differs from more general provisions on aiding and abetting, and most criminalize the financing of both an individual terrorist and a terrorist organization. Only few States have legal provisions providing for the freezing of terrorist funds without delay and corresponding application measures. One State does not yet have in place a legal framework that would allow for the freezing of funds in accordance with resolution 1267 (1999) or the consideration of lists issued by other States in accordance to resolution 1373 (2001). Four States allow the freezing of funds under certain conditions or without requiring that the assets be frozen without delay. Relevant national laws and procedures and anti-corruption and money-laundering regulations should be harmonized. Asset-freezing legislation and its enforcement should be improved to fully satisfy the terms of resolution 1373 (2001).

288. All Central American States have introduced declaration and/or disclosure systems to detect the illicit physical cross-border transportation of currency, but there are significant shortcomings in their enforcement. Continued emphasis should also be placed on the development of means to arrest cash couriers. Few Central American States have conducted an assessment of the terrorism-financing risk to their respective non-profit organization sectors.

(ii) Firearms

289. All States are parties to the Inter-American Convention against the Illicit Manufacturing and Trafficking in Firearms, Ammunitions, Explosives, and Other

Related Materials, and most criminalize the illicit manufacturing, trafficking or alteration of firearms. However, shortfalls in legislation against illegal activities relating to small arms and light weapons tend to promote organized crime. With regard to the fight against trafficking in small arms and light weapons, the educational programmes implemented by Mexico are of particular importance and have been recommended as a good practice by the Committee.

3. Opportunity and border security

290. Few Central American States have developed a coherent security strategy, but many have taken steps to improve border security. El Salvador has strengthened migration and customs controls. Only four States have in place legislation to prevent terrorist smuggling and the illegal flow of people across borders. Few States have adopted legal measures that criminalize assistance to people seeking to leave or enter the State for the purpose of trafficking in persons.

291. Very few States have connected their immigration-screening process at the front line to the INTERPOL Stolen and Lost Travel Document database. However, almost all States' INTERPOL National Central Bureaux provide the police with access to INTERPOL databases. In 2010, Honduras introduced a system enabling national police officers to perform real-time checks against the INTERPOL Stolen and Lost Travel Document database to verify instantly whether an individual is attempting to enter the State on a fraudulent travel document. Only four Central American States implement advance passenger information systems. More information is required to assess whether the States have the intelligence and analytical capacity to detect potential terrorists and whether they record and store data on the entry and exit of persons crossing the borders. Only Mexico and Panama have established computerized systems to collect and store passengers' relevant data.

292. Almost all States have taken active steps to guarantee full respect for internationally recognized human rights standards in addressing the movement of persons across the borders, including by guaranteeing the principle of non-refoulement. Although all States have ratified, or are acceding to, the Inter-American Convention to Prevent and Punish Torture, they should take steps to enable immigration and customs authorities to identify individuals requiring international protection. Moreover, although no Central American State has in place measures to prevent the granting of asylum to people involved in terrorism, some have taken steps to improve the quality and efficiency of refugee-status determination.

4. Bringing terrorists to justice

(a) Planning and preparation

293. States have not yet fully incorporated into domestic law all the offences established in the international instruments. Only three States prohibit the use of their territories by their nationals to commit or prepare terrorist acts against other States, and few have introduced adequate measures for the suppression of recruitment of members of terrorist groups or for the criminalization of the provision of safe haven to terrorists or their supporters. Other States criminalize preparatory acts conducted in the State with the aim of committing terrorist acts against other States or their citizens outside the State's territory. However, four

Central American States do not criminalize acts of planning, preparation and supporting of terrorist acts as autonomous offences.

(b) Foreign terrorist fighter travel element

294. The foreign terrorist fighter threat is not currently a major concern to this subregion. Existing legislation provides for the prosecution of some terrorism-related crimes with cross-border dimensions and, to some extent, the travel targeted by resolution 2178 (2014). Conspiracy offences provided for in most States could provide for the prosecution of acts of planning and preparation. Preparatory acts are specifically criminalized in most States, as are attempt, support, and facilitation/counselling to commit a crime (which could be used to prosecute the travel element of resolution 2178 (2104)). Some States have criminalized recruitment and the receiving or providing of training, inside or outside the State, to commit acts of terrorism.

(c) Capacity to investigate and prosecute

295. There is insufficient information available to assess whether prosecutors' offices have the authority, capacity, expertise, technical means and human resources to deal with complex terrorism cases or to what extent special investigative techniques are used. The use of the latter varies from State to State. Costa Rica may apply to terrorism cases the same techniques available in investigating drug-trafficking cases (including undercover operations, interception of communication and controlled delivery). Mexico's Federal Organized Crime Act allows the interception of private communications, the doubling of pretrial detention periods, and the infiltration of agents into criminal groups. Other permitted special investigative techniques include house searches, seizure of persons, search and seizure of documents, anticipation of testimonies, and electronic surveillance.

5. Activating international cooperation

(a) Effective mutual legal assistance and extradition

296. All Central American States are members of the Inter-American Committee on Terrorism and parties to the Inter-American Convention against Terrorism. All have also ratified the Inter-American Convention on Mutual Assistance in Criminal Matters and several international counter-terrorism instruments and have established subregional and bilateral mechanism for law enforcement cooperation, such as early warning mechanisms and intelligence cooperation. However, no State provides exhaustive guidelines on the legal and procedural framework relating to mutual legal assistance and extradition and no State has designated a national central authority responsible for extradition. In view of the lack of information available, it is difficult to assess which States have designated a central authority responsible for processing mutual legal assistance requests. Only Honduras has posted clear guidance on the Organization of American States website.

(b) Ensuring effective exchange of information and intelligence

297. Since all Central American States are members of INTERPOL, they can exchange information through INTERPOL National Central Bureaux and cooperate in international criminal matters. Moreover INTERPOL and the Commission of Chiefs of Police of Central America, Mexico and the Caribbean have signed a

cooperation agreement aimed, above all, at coordinating and monitoring bilateral and multilateral police operations. The Central American Integration System (SICA) leads the programme entitled "Border Security in Central America", which seeks to build a joint-border management programme to monitor and control border transit. The United States Central American Regional Security Initiative helps Central American States to improve law enforcement and interdiction operations. Cooperation in the subregion is improving, but should be strengthened, especially in border areas.

Caribbean

(Antigua and Barbuda, Bahamas, Barbados, Cuba, Dominica, Dominican Republic, Grenada, Haiti, Jamaica, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Trinidad and Tobago)

A. Terrorist and threat environment

1. Trends (including foreign terrorist fighters)

298. The threat of terrorism in the Caribbean region remains low. Evidence of home-grown terrorism or movement of terrorists or suspected terrorists across its territories have not been documented or detected. However, over 60 individuals have left Trinidad and Tobago since mid-2014 to join ISIL and other extremist groups in Iraq and the Syrian Arab Republic. The risk of recruitment to terrorism and radicalization is growing. However, the foremost security challenge continues to be escalating levels of criminal activity and their debilitating effects on society. Crime and insecurity are driven by a number of factors, including the illegal drugs trade, human trafficking for the sex industry, forced labour, money-laundering and other financial crimes, unemployment, corruption and, in some cases, the inability of criminal-justice systems to bring perpetrators to justice.

2. Risks

299. Terrorism is, however, an area of concern, since many of the above-mentioned factors have the potential to fuel terrorist recruitment and lead to terrorist acts. Moreover, because of its geography, the subregion is vulnerable to maritime criminal activity, including the smuggling of drugs, guns and people. Efforts to meet these challenges are hampered by human and material resource constraints. However, Governments are working bilaterally and subregionally to address these problems. The subregion has made progress in complying with resolution 1373 (2001), particularly in the area of counter-financing of terrorism and the adoption of measures relating to port and airport controls. The adoption of counter-terrorism legislation is providing judicial and prosecutorial authorities with the legal powers to bring terrorists to justice. States have also developed subregional mechanisms to ensure coherent legal and institutional capacity-building in the control of financial systems, law enforcement and border control, cooperation, attention to human rights and non-duplication of activities.

3. Priority issues/recommendations

- Draft and implement comprehensive, integrated national counter-terrorism strategies
- Fully criminalize recruitment of members to a terrorist group and take measures to prevent and suppress incitement to terrorism, glorification of terrorism, and use of the Internet for terrorist purposes
- Strengthen asset-freezing legislation and its implementation to comply fully with the requirement to "freeze without delay" set forth in resolution 1373 (2001)
- Take steps to prevent activities of cash couriers and illicit cross-border movement of cash and monetary instruments
- Strengthen legislative and practical measures to regulate and control illicit trafficking in small arms and light weapons
- Review the non-profit organization sector to assess its vulnerabilities to terrorism financing
- Provide front-line border control and immigration personnel with access to key databases and terrorist watch lists, including INTERPOL I-24/7, red notices, and Al-Qaida sanctions lists, in order to be able to effectively screen persons entering the State for links to terrorist and criminal activity
- Improve national refugee and asylum procedures
- Continue to improve the sharing of information and intelligence domestically and with international partners.

B. Areas of assessment

1. From prevention to rehabilitation

(a) Comprehensive counter-terrorism strategies (subregional and national)

300. Few Caribbean States have introduced comprehensive and integrated counter-terrorism strategies, although several have developed strategies for combating various types of crime. Saint Kitts and Nevis has developed a community counter-terrorism paper on domestic terrorism and crime that addresses the role of first responders in helping to prepare and protect the community, as well as the role of media. Jamaica has developed a comprehensive national security policy and has established the National Security Council to coordinate and implement policy and operational measures.

(b) Human rights

301. In Jamaica and Saint Vincent and the Grenadines, civilian authorities maintain effective control over the police, and the Government has effective mechanisms in place to investigate and punish abuse and corruption. Other States have some capacity of law enforcement oversight, but further improvement is needed. Most States have defined "terrorist acts" in accordance with the international instruments. However, Haiti has no definition of terrorist acts in its legislation, and Cuba and the Dominican Republic could improve their legislation to ensure compliance with

international norms. Around half the States of the subregion need to strengthen respect for the rule of law in trials and ensure that arrest, detention, and judicial processes are fair.

2. Addressing enablers

(a) Intent and knowledge

302. Five States of the Caribbean subregion have not yet effectively criminalized recruitment of members to a terrorist group.

303. Although some States have criminalized incitement and soliciting the commission of a terrorist offence, few have introduced stand-alone laws to prevent and suppress incitement to terrorism. Few States have drafted specific legislation on abuse of the Internet for terrorist purposes.

(b) Means

(i) Financing/freezing of assets

304. All States have criminalized terrorism financing as a stand-alone offence, and all but one have criminalized terrorism financing, even if the funds cannot be linked to a specific terrorist act. Two States have not yet criminalized the funding of individual terrorists, but all have criminalized the funding of terrorist organizations. No State has yet fully established an effective mechanism for freezing assets without delay, as required by resolution 1373 (2001). Several States have introduced asset-freezing legislation and systems to freeze suspected terrorist funds. Nevertheless, asset-freezing legislation and its implementation need to be improved to meet the terms of resolution 1373 (2001). All States have some form of cash-declaration or disclosure process in place for persons entering and/or exiting the State. However, these disclosure systems are not in compliance with the recommendations of the Financial Action Task Fund, nor are tested, comprehensive systems linked to law enforcement agencies, subject to database tracking and broader measures to prevent the illicit cross-border movement of cash. Further work is therefore needed to prevent the activities of cash couriers and illicit cross-border cash movements. Although some States have taken steps to review their charitable and non-profit organization sectors for the risk of terrorism financing through these organizations, only Saint Vincent and the Grenadines has conducted a comprehensive review.

(ii) Firearms

305. Most States, with the exception of Barbados and Haiti, criminalize to some extent the illicit trafficking and manufacturing of firearms, as well as the obliteration of official markings. However, many need to strengthen their legislation. In Antigua and Barbuda, the authorities carry out recognized arms tracing and tracking procedures. Saint Kitts and Nevis maintains a system of export, import and international transit licences and authorizations for the transfer of firearms, ammunition, explosives and other related materials. There is also a national authority responsible for coordinating controls on the illicit manufacturing of, and trafficking in firearms, ammunition, explosives and related materials.

3. Opportunity and border security

306. Most States have taken steps to prevent the smuggling of terrorists and control the flow of persons across borders. Although several States have fully criminalized the wilful provision of assistance to someone to enter the State in contravention of its entry laws, there is insufficient information to assess all States in this context. Most States use the INTERPOL I-24/7 system and other databases, including the Al-Qaida sanctions lists and red notices, to screen persons entering the State. Cuba, Haiti, and Trinidad and Tobago, however, have no direct front-line access to key databases. All States but three use advance passenger information systems. Some States use electronic immigration systems to record and store traveller data. Jamaica's Passport, Immigration and Citizenship Agency has established an electronic immigration database, and the Bahamas has a pre-clearance programme for persons entering its territory. Nevertheless, States need to improve measures to ensure that immigration and border-control personnel have real-time, front-line access to, and are trained in, the use of essential databases, watch lists and screening tools.

307. Many States have taken steps to ensure that procedures dealing with the movement of persons comply with international human rights standards. None are deemed to have knowingly violated the principle of non-refoulement. However, several States need to strengthen measures to identify persons in need of international protection so that they do not violate the non-refoulement principle. Several Caribbean island States are party to the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol. Jamaica has put in place a refugee policy that reflects best practices and covers all aspects of the treatment of persons seeking refugee status, from the time of arrival until a decision is taken to grant or deny refugee status. However, many need to improve their national refugee and asylum procedures and take steps to ensure that asylum status is not granted to an individual who has planned, facilitated or participated in a terrorist act.

4. Bringing terrorists to justice

(a) Planning and preparation

308. The ability to bring terrorists to justice is an essential component of a functional counter-terrorism strategy. Comprehensive domestic legislation, a capable prosecution, and the ability to conduct investigations are key. However, only five States of this subregion have criminalized the planning, preparation and supporting of terrorist acts as autonomous offences, and only seven have laws in place to criminalize planning and preparing terrorist attacks against other States or their citizens outside the State's territory.

(b) Foreign terrorist fighter travel element

309. The foreign terrorist fighter threat is not currently a major concern to this subregion. Some States have adopted legal measures that could partially criminalize acts of planning and preparation and could be used to prosecute some aspects of the travel element of resolution 2178 (2104), but this element is not specifically criminalized in accordance with the resolution.

(c) Capacity to investigate and prosecute

310. There is insufficient information to determine whether the prosecutors' offices of States of this subregion have the capacity and expertise needed to handle complex terrorism cases. It is also difficult to assess to what extent law enforcement agencies use special investigative techniques in terrorism cases. Grenada does allow the use of special investigative techniques, such as electronic surveillance or controlled deliveries. Haiti allows undercover operations subject to advance authorization from the local magistrate's court. Saint Lucia has introduced a law that empowers several key authorities to intercept communications (e.g., telephone conversations) in some cases.

5. Activating international cooperation

(a) Effective mutual legal assistance and extradition

311. Most Caribbean States cooperate to some degree with international partners on extradition requests and the exchange of information. However, improvements need to be made with regard to mutual legal assistance and the publication of information about policies, extradition guidelines and the names of contact persons. Not all States are party to the Inter-American Convention on Extradition or the Inter-American Convention on Mutual Assistance in Criminal Matters. Two States do not have extradition or mutual legal assistance laws.

(b) Ensuring effective exchange of information and intelligence

312. All States of the Caribbean subregion are members of INTERPOL and are able to share information via their respective National Central Bureaux to INTERPOL and its other members. Ten States are members of the Egmont Group and their financial intelligence units can share information via Egmont channels. Most of these States have also signed bilateral and multilateral exchange agreements.

South America (Argentina, Bolivia (Plurinational State of), Brazil, Chile, Colombia, Ecuador, Guyana, Paraguay, Peru, Suriname, Uruguay, Venezuela (Bolivarian Republic of))

A. Terrorist and threat environment

1. Trends (including foreign terrorist fighters)

313. All South American States recognize the threat posed by terrorism and have gradually introduced measures, both legislative and administrative, to prevent terrorist acts and prevent the movement of terrorists across borders. Although there is no evidence of the presence of operational Al-Qaida and Hezbollah cells in the subregion, ideological sympathizers are thought to provide financial support to terrorist groups in the Middle East and South Asia. According to reliable reports, terrorist activity decreased in several States (notably Colombia and Peru) in 2014, but in others it was encouraged by the lack of adequate counter-terrorism measures, which helped to strengthen the links between criminality and terrorism.

2. Risks

314. The Tri-Border Area of Argentina, Brazil and Paraguay is one of the regions most affected by trafficking in arms and ammunition, trafficking of narcotics, human smuggling, money-laundering and counterfeiting. Some States have achieved notable progress in investigating and prosecuting acts of terrorism. Lebanese nationals, for example, have been arrested for suspected links to Hezbollah. The general perception is that the terrorist threat to the region is very low. However, the situation could worsen because of insufficient intelligence collection, poor information-sharing, lax screening of travellers, inadequate laws for prosecuting terrorists and foreign terrorist fighters, and weak border security. Most worrying is the failure of South American States to screen their own citizens against terrorist watch lists. Few travellers are checked for terrorist links when they move into and out of the continent. Most States lack advance passenger information and passenger name record systems. Moreover, where there are counter-terrorism laws in place, Governments struggle to prosecute extremists, especially if prosecutors have limited experience with terrorism cases. Many States have taken active steps to improve subregional and international cooperation, but corruption, weak Government institutions, weak legislation, porous borders and shortage of personnel and enforcement authority pose serious challenges. Excessive bureaucracy, lack of training, and resource constraints are further concerns.

3. Priority issues/recommendations

- Implement comprehensive and integrated national counter-terrorism strategies
- Implement effective, independent mechanisms for the supervision of law enforcement agencies
- Adopt a clear definition of terrorist acts
- Guarantee respect for the rule of law
- Strengthen the efficiency of the judiciary
- Criminalize the recruitment of members of terrorist groups and acts of planning, preparation and supporting of terrorist acts
- Strengthen Government institutions, provide law enforcement authorities with training, and eradicate corruption
- Strengthen inter-agency cooperation and information-sharing
- Improve border security in order to increase effectiveness in preventing and detecting illicit cross-border activity
- Strengthen asset-freezing legislation in order to meet the relevant requirements of resolution 1373 (2001).

B. Areas of assessment

1. From prevention to rehabilitation

(a) Comprehensive counter-terrorism strategies (subregional and national)

315. Few South American States have introduced a comprehensive and integrated counter-terrorism strategy, although some are taking active steps to introduce one. Uruguay is currently drafting a comprehensive counter-terrorism strategy and has approved an anti-money-laundering/counter-financing of terrorism strategy. Ecuador has approved a law against terrorism financing, which includes a comprehensive and integrated counter-financing of terrorism strategy. Paraguay has created the Secretariat for the Prevention and Investigation of Terrorism, which cooperates with other relevant public sector agencies in pursuance of counter-terrorism strategies.

(b) Human rights

316. Most States have established law enforcement oversight mechanisms in an effort to guarantee professionalism and respect for human rights in the fight against terrorism. Only four States either do not have procedures, or have inadequate procedures, for the oversight of law enforcement agencies. Most States have introduced into national legislation the definition of "terrorist acts", but in some cases the definition is overbroad, unclear, and imprecise. Only two States have introduced a precise and comprehensive definition of terrorist acts, and one has not introduced a definition at all.

317. Almost all States of the subregion guarantee, in their constitutions and laws, respect for rule of law principles such as the independence and impartiality of the judiciary, a fair and public trial without undue delay, the presumption of innocence, the right to be assisted by an attorney, and the right to be informed promptly and in detail of the charges. However, in some States, respect for these principles is significantly compromised by corruption within the judiciary, the practices of arbitrary arrest and detention, obstacles to the preparation of a defence, and limited access to free legal counsel for persons in detention.

318. Almost all States guarantee respect for the principle of non-refoulement, but few offer asylum seekers protection against removal until all legal remedies have been exhausted. There are shortcomings in the enforcement of legal provisions dealing with these principles. The United Nations Committee against Torture, for instance, has expressed concern over allegations of extraditions carried out by one State without consideration of the risk of torture in the receiving State. The Inter-American Court of Human Rights found one South American State responsible for violating the right to seek and be granted asylum and the principle of non-refoulement.

2. Addressing enablers

(a) Intent and knowledge

319. Only three States have in place legislative provisions criminalizing the recruitment of terrorists. Other States may partially criminalize recruitment pursuant to more general provisions set forth in criminal codes or legislative acts.

320. Most South American States do not appear to criminalize incitement to commit terrorist acts as an autonomous offence, in some cases considering that criminalization is covered by the existing offences of "instigation"; "public intimidation" and "advocacy" (or *apologie*). Argentina's Penal Code provides that the offence of incitement may be penalized as "aiding and abetting", or "advocacy of a crime", depending on the circumstances. Brazil's Penal Code criminalizes incitement to the commission of any crime in general. Its draft legislation on the criminalization of terrorism and the financing of terrorist activities includes specific criminalization of incitement of terrorism. The Penal Code also criminalizes public apology (or glorification) of any crime or criminals. Colombia's Penal Code criminalizes perpetration and participation (incitement to commit a terrorist act or acts falling within the scope of the provisions on perpetration and participation).

(b) Means

(i) Financing/freezing of assets

321. All South American States are parties to the International Convention for the Suppression of the Financing of Terrorism. Moreover, nine States are members of the Latin American Financial Action Group, and four are members of the Caribbean Financial Action Task Force. All but three are members of the Egmont Group of financial intelligence units. In most States, terrorism financing is a stand-alone offence, since it is criminalized even if the funds have not been used to commit or attempt to commit terrorist attack or cannot be linked to a specific terrorist act, and cover the financing of both an individual terrorist and a terrorist organization. However, it is strongly recommended that all States adapt their legislation to be in compliance with international instruments and norms in order to overcome shortfalls in relevant counter-financing of terrorism provisions. The capacity to freeze without delay funds and assets linked to terrorism is not yet fully implemented in most States, although it has been greatly strengthened in some cases.

322. Although most States have legislation in place to regulate charitable organizations, no State has conducted a thorough review of the non-profit organization sector for terrorism-financing risk. Colombia has conducted studies relating to its non-profit organization sector on a regular basis since 2008. Argentina has also conducted a review of its domestic laws and regulations relating to non-profit organizations. Although many States have improved measures to address cash couriers by establishing declaration or disclosure systems for the reporting of cross-border movement of cash, regulation and monitoring of alternative remittance systems remain need to be improved.

(ii) Firearms

323. All South American States have ratified the Inter-American Convention against the Illicit Manufacturing and Trafficking in Firearms, Ammunitions, Explosives, and Other Related Materials, and most have provisions criminalizing the illicit manufacturing, trafficking or alteration of firearms. However the number of small arms and light weapons circulating in the subregion undermines the effectiveness of the system in place.

3. Opportunity and border security

324. Lengthy, porous and often unmarked borders and black-market trade routes pose significant border-security challenges. Public security and military forces are generally able to monitor borders only in urban areas or at points where major roads cross. Elsewhere, borders present ample opportunity for residents to arbitrage differences in the supply, demand and cost of various goods and services (some of which are illegal). Illicit trafficking provides income, and border communities appear to benefit economically from the recent surge in the smuggling of drugs and people. Despite recent improvements in information-sharing and coordination among border agencies, certain areas continue to cause significant concern.

325. All South American States have ratified the "Trafficking in Persons Protocol" and, with the exception of one State, the Protocol against the Smuggling of Migrants by Land, Sea and Air. Although many States have introduced legal provisions criminalizing the smuggling of people and are thus able to prevent the smuggling of terrorists, the implementation of laws to prevent and suppress the movement of terrorists across the borders should be strengthened and accompanied by the disclosure of relevant information. States of the subregion might wish to study the subregional and international joint operations conducted by the Brazilian authorities to disrupt human-smuggling networks. Brazil's high-profile travel-document security system also stands out as a good practice.

326. All States have access to INTERPOL data. In many cases, however, the degree to which States access and use the data is not clear. For instance, Argentina and Paraguay appear to be the only States that regularly report data on stolen and lost passports. In seven States, immigration screening processes are not connected at the front line to the INTERPOL Stolen and Lost Travel Document database and red notices for suspected criminals and wanted persons. Some, however, have taken steps to give police officers to access the relevant databases. Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Paraguay, Peru, Uruguay and Venezuela participate in the MERCOSUR Security Information Exchange System, which connects its member States' databases to INTERPOL global databases.

327. Only three States have introduced advance passenger information systems and few have the intelligence and analytical capability to detect potential terrorists. Lack of information makes it impossible to determine whether South American States have automated systems in place to record and store data on the entry and exit of persons crossing the borders. Most States have put in place an efficient refugee-status determination procedure that prohibits the granting of asylum to those who have planned, facilitated or participated in a terrorist act. One State requires that the refugee visa be renewed annually, enabling the competent authority to withdraw refugee status if the individual concerned is participating in, or has participated in terrorist activities. Other States have enacted legislation that prohibits the granting of asylum to those who have committed war crimes, serious crimes outside the State of refuge, or acts contrary to United Nations principles.

4. Bringing terrorists to justice

(a) Planning and preparation

328. Only two States have introduced complete provisions criminalizing the planning and preparation of terrorist acts as stand-alone offences. Three criminalize

specific preparatory acts, and the others have no such provisions in place. Some States have introduced laws or acts to enable the prosecution of preparatory acts conducted in the territory of the State with the aim of committing terrorist acts against other States.

(b) Foreign terrorist fighter travel element

329. The foreign terrorist fighter threat is not currently a major concern to this subregion. However, like most terrorists, foreign terrorist fighters must be recruited, and need to travel. Self-selection and varying degrees of intrinsic motivation are important, but extrinsic factors also appear to be crucial. No State has introduced legislation specifically addressing the travel element of resolution 2178 (2014). However, the legislation of some States is sufficiently broad to cover some foreign terrorist fighter-related offences. Some States also criminalize the receiving or providing of training to commit acts of terrorism.

(c) Capacity to investigate and prosecute

330. Except with regard to two States, there is insufficient information available to assess whether prosecutors' offices have the authority, capacity, expertise, technical means and human resources to handle complex terrorism cases. In this respect, prosecutors should be provided with continuous training. Few States authorize specific special investigative techniques for terrorism-related cases, but techniques such as undercover operations, interception of communications and electronic surveillance, developed for other criminal cases, could be applied. In several States, such techniques are not fully developed and adequately supported by ICT. Colombia's specialized Counter-Terrorism Unit has achieved a high level of expertise in investigating and prosecuting acts of terrorism and insurgency.

5. Activating international cooperation

(a) Effective mutual legal assistance and extradition

331. All South American States are members of the Inter-American Committee against Terrorism and all but two are parties to the Inter-American Convention against Terrorism. Eleven States have also ratified the Inter-American Convention on Mutual Assistance in Criminal Matters, and the remaining State is a signatory. However, only two States have ratified the Inter-American Convention on Extradition. International cooperation has improved, but many States have not developed and made available guidelines on domestic laws and procedures relating to mutual legal assistance and extradition, and several have designated national central authorities responsible for processing extradition and mutual legal assistance requests. Most States of the subregion have introduced adequate provisions on extradition and mutual legal assistance, and the others are taking steps to strengthen relevant national legislation.

(b) Ensuring effective exchange of information and intelligence

332. All South American States are members of INTERPOL and can cooperate on international criminal matters by exchanging information through INTERPOL National Central Bureaux. Only three States have introduced advance passenger information systems, and 10 States participate in the MERCOSUR SISME. In 2014, Argentina, Brazil and Paraguay cooperated in strengthening law enforcement in the

Tri-Border Area via the Trilateral Tri-Border Area Command. Colombia is a founding member of the Global Counterterrorism Forum and also played a central role in the creation of the Police Community of the Americas (Ameripol) in 2007 and the Latin American and Caribbean Police Intelligence Community.

Europe and North America

Eastern Europe
(Belarus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Republic of Moldova, Russian Federation, Slovakia, Ukraine)

A. Terrorist and threat environment

1. Trends (including foreign terrorist fighters)

333. Since the previous survey, of 2011, the terrorist threat level in Eastern Europe has been relatively stable. Currently, the risk is comparatively low in most States of the subregion. Some States of the subregion have suffered incidents of right-wing terrorist violence over the past four years. The threat level is high, however, in the Russian Federation, which has faced a number of successful or thwarted terrorist attacks, both on its territory and against its interests abroad. According to Government estimates, between 5,000 and 7,000 foreign terrorist fighters have travelled from the Russian Federation or former Soviet Union States to conflict zones in Iraq and the Syrian Arab Republic. Some have also returned. Terrorist organizations have been banned by the Supreme Court of the Russian Federation.

2. Risks

334. States engaged in military operations abroad, including against terrorist organizations, believe that their engagement may have increased the risk of terrorist attacks against them. Vulnerabilities also stem from irregular migration flows and visa-free travel or entirely free movement across borders in the States of the subregion that are members of the Commonwealth of Independent States or the European Union and its (extended) Schengen zone. Few States have fully implemented the requirements of resolutions 1373 (2001) and 1624 (2005) that are relevant to stemming the flow of foreign terrorist fighters in accordance with resolution 2178 (2014).

3. Priority issues/recommendations

- Continue to cooperate and exchange information, both within subregional bodies, such as the European Union and its various institutions, and also bilaterally
- Develop a comprehensive, integrated national counter-terrorism strategy if none is yet in place. (European Union member States should consider drafting national strategies based on the European Union Counter-Terrorism Strategy and the European Union Strategy for Combating Radicalisation and Recruitment to Terrorism)
- Adopt legislation that criminalizes passive terrorist recruitment as a stand-alone offence

- Criminalize the receipt of terrorist training in accordance with resolution 2178 (2014)
- Adopt counter-terrorism financing laws that are fully compliant with paragraph 1 (b) of resolution 1373 (2001)
- Strengthen regimes for the freezing of terrorist funds without delay
- Improve the practical implementation of declaration systems to detect the illicit physical cross-border transportation of currency
- Take steps to minimize the vulnerability of the non-profit organization sector to terrorism financing
- Connect front-line police and border-control officers to the INTERPOL Stolen and Lost Travel Document database, Red Notices and other available tools, as well as United Nations sanctions lists
- Populate the relevant INTERPOL databases systematically and introduce advance passenger information systems
- Enhance criminal-justice systems to enable successful prosecution of foreign terrorist fighters (returnees) in full compliance with international human rights law and rule of law standards
- Enhance bilateral and regional cooperation with States outside the European Union and Council of Europe, including by considering the use of transfer of criminal proceedings and the recognition of foreign criminal judgements
- Continue dialogue with all treaty and mechanisms based on the Charter of the United Nations and ensure that counter-terrorism measures are in compliance with international human rights law and rule of law standards.

B. Areas of assessment

1. From prevention to rehabilitation

(a) Comprehensive counter-terrorism strategies

335. Only a few States have implemented a fully comprehensive and integrated national counter-terrorism strategy. The European Union member States largely rely on the implementation of the 2005 European Union Counter-Terrorism Strategy, "Prevent — Protect — Pursue — Respond", which in some cases is complemented by national counter-terrorism strategies or action plans or by national security strategies that include a counter-terrorism component. The European Union States are encouraged to domesticate the European Union Counter-Terrorism Strategy in order to provide a measure that can be effectively monitored and adapted to the particularities of the national context.

(b) Human rights

336. All States have established some form of oversight mechanism for law enforcement agencies with a view to ensuring professionalism and respect for human rights in their counter-terrorism work. Depending on the legal system in use, the mechanisms take a number of different forms (whether a judicial body, a parliamentary body, a policing body, an ombudsperson, prosecutor-general or a

combination of more than one). Some States are considered to be fully compliant in this regard. However, international human rights mechanisms have raised concerns regarding the independence or efficiency of other States' oversight mechanisms, as well as their level of funding and their capacity to exercise their mandates effectively. Most European Union States of this subregion have modelled their definition of "terrorist acts" on article 1 of European Union Council Framework Decision of 13 June 2002 on combating terrorism (2002/475/JHA). The conduct criminalized as terrorist thus goes beyond the requirement of paragraph 3 of resolution 1566 (2004). With respect to some European Union and other States, concerns have been raised as to the clarity and precision of legislation criminalizing terrorist conduct. All States should monitor the application of these laws and revise them as necessary in order to bring them fully into line with the international counter-terrorism instruments, international human rights law, and rule of law standards. Despite concerns raised by international human rights mechanisms, some States do not fully uphold human rights in terrorism trials, including the right to be brought promptly before a judge following arrest, access to a lawyer, and the presumption of innocence.

2. Addressing enablers

(a) Intent and knowledge

337. The majority of States have signed and ratified the Council of Europe Convention on the Prevention of Terrorism (CTES No. 196), article 6, paragraph 2, of which obliges its States parties to establish recruitment to terrorism as a criminal offence under their domestic laws. The same requirement is stipulated in article 3, paragraph 2, of European Union Council Framework Decision 2002/475/JHA, as amended by Framework Decision 2008/919/JHA, for European Union States. However, only a few States have introduced legislation specifically criminalizing recruitment for terrorism. All others rely on general criminal law rules on participation in a crime, which may cover recruitment activities. No State appears to criminalize passive terrorist recruitment. A stand-alone offence would be preferable, in particular in view of the additional obligation of paragraph 6 (c) of resolution 2178 (2014), which makes it mandatory for all United Nations Member States to criminalize the wilful organization, or other facilitation, including acts of recruitment, by their nationals or in their territories, of foreign terrorist fighter travel.

338. All States face challenges in tackling terrorist propaganda disseminated through the Internet and social media. Most States have introduced measures to regulate the content especially if it amounts to incitement of terrorism. However, these efforts face challenges when the domains are registered abroad. States should continue to undertake effective measures to prohibit and prevent incitement to commit terrorist acts, including via the Internet and other social media, while also safeguarding relevant human rights, including the right to freedom of expression, and religion or belief.

(b) Means

(i) Financing/freezing of assets

339. More than half of States have stand-alone offences in their national criminal legislation that cover terrorist financing, including when the provision or collection of funds cannot be linked to a specific terrorist act or is intended to finance a

terrorist entity. Very few States are largely in compliance with the requirements of paragraph 1 (b) of resolution 1373 (2001). Few other States fall short of those requirements, but both are currently amending their laws pursuant to the recommendations of Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL). Most States are experiencing difficulties in complying with their obligations to freeze terrorist funds without delay in accordance with resolution 1373 (2001). Very few States are compliant in law and practice; one is largely compliant; more than half are partially compliant (e.g., because certain assets may be frozen only in the context of criminal proceedings); and one shows major deficiencies in its freezing mechanism. The subregion's European Union States implement their freezing obligations pursuant to the directly applicable Council regulation No. 881/2002, as amended, on Al-Qaida and affiliates. Deficiencies often relate to the fact that Council regulation No. 2580/2001, which is also directly applicable in relation to the freezing of funds pursuant to resolution 1373 (2001), does not apply to European Union internals and requires complementary national legislation to address this deficiency.

340. All States have established a declaration system to detect the illicit physical cross-border transportation of currency, which represents progress on the 2011 survey, which recommended that States in the region tighten controls and monitoring of the physical movement of cash. The systems of the European Union States are based on the directly applicable European Union Council regulation 1889/2005. MONEYVAL has raised concerns about the practical implementation and enforcement of the system in some cases. In one State there is no legal obligation for customs authorities to report suspicions of money-laundering or terrorist financing to the financial intelligence unit. Only some States have undertaken an assessment of the risk of the non-profit organization sector to terrorist-financing abuse. With respect to the other States: either they are known to have mechanisms in place to review and analyse the terrorism-financing risk to the sector or the existence of such a mechanism may be deducted from the MONEYVAL attestation of compliance with the former Financial Action Task Force special recommendation VIII (now Task Force recommendation 8).

(ii) Firearms

341. All States have criminalized the illicit manufacturing and trafficking of firearms and, to varying degrees, have introduced criminal legislation on the illicit alteration of firearms and/or the illicit obliteration of their markings.

3. Opportunity and border security

342. In more than half the States of the subregion, some form of legislation may be applied to prevent the smuggling of terrorists. These provisions are generally found in immigration laws that criminalize the illegal entry into, stay in, transit through, or exit of, a State and/or the smuggling of, or trafficking in, human beings, and criminal association thereto. It appears that some Member States have connected their immigration screening process at the front line to the INTERPOL I-24/7 Stolen and Lost Travel Document database and Red Notices of suspected criminals and wanted persons, as well as the United Nations sanctions lists. Others have opted to integrate INTERPOL databases into national databases (without, however, entering the data in real time) rather than granting border-control authorities direct access to the I-24/7 system.

343. Only very few Member States use an advance passenger information system to effectively screen travellers at ports of entry by air into the State. One State has the capacity to do so, but does not require airlines operating in its territory to provide advance passenger information data (which can be an effective tool in preventing new emerging threats and trends relating to travel of foreign terrorist fighters and other terrorists and individuals engaged in transnational organized crime, especially when used in conjunction with INTERPOL databases). Only a few States appear to record and store in an automated system the entry and exit of persons crossing air, land and sea borders. Few States have taken steps towards the implementation of the WCO Framework of Standards and currently comply with some of its elements.

344. Most States have a refugee-status determination procedure that prevents the granting or revocation of asylum to an individual involved in terrorist activity, either specifically, or under broader concepts such as the commission of a serious non-political crime or a crime against peace, a war crime or a crime against humanity; or being guilty of acts contrary to the purposes and principles of the United Nations; or a threat to national or public security or order. Concerns have been expressed by international human rights mechanisms and UNHCR in relation to nearly all States for not observing the principle of non-refoulement and other (procedural) safeguards in asylum, extradition, expulsion or deportation proceedings in law and/or practice, such as lack of access to the asylum procedure for persons in need of international protection at the border; reports of apprehensions and forcible removals; prolonged detention of asylum seekers; remote and isolated location of reception centres for asylum seekers and poor detention conditions; lack of procedural guarantees in accelerated procedures; or limited access to, or low quality of State legal aid and free interpretation services. Many States have acted upon relevant recommendations of international human rights mechanisms. All States should continue their dialogue with all treaty and Charter-based mechanisms and ensure that counter-terrorism measures are in compliance with international human rights law and rule of law principles.

4. Bringing terrorists to justice

(a) Planning and preparation

345. The majority of States have introduced specific provisions in their national laws that criminalize terrorist acts of organizing; planning; preparation, including recruitment or training; involvement; incitement or persuasion; or other forms of (material) support, including financial support; to terrorist acts, or conspiracy to commit terrorist acts; or are able to prosecute such conduct on the basis of general criminal provisions of aiding and abetting or similar accessory concepts, rather than on the basis of autonomous offences. All States with underinclusive laws should review, and if necessary, amend them accordingly. Most States extend their jurisdiction to terrorism offences committed against another State (or international organization) or by their own nationals regardless of the location in which the offence was committed. However, in a few States, further clarification is required as to whether the applicable provisions allow for the prosecution of any preparatory or accessory acts that are conducted by nationals on the territory of their State, but where the actual act of terrorism is committed in another jurisdiction.

(b) Foreign terrorist fighter travel element

346. Following the adoption of resolution 2178 (2014), several States began the process of reviewing and amending their criminal legislation to ensure that all foreign terrorist fighter-related offences set forth in resolution 2178 (2014) are criminalized in domestic legislation. One State has already introduced relevant measures to prosecute foreign terrorist fighters before the adoption of resolution 2178 (2014). Some other States in the region have the capacity and commitment to bring foreign terrorist fighters to justice. Several States in the region should review their national legislation to ensure that criminal procedural and evidentiary rules allow for the broad collection and use of evidence against foreign terrorist fighters, while respecting international human rights and rule of law obligations.

(c) Capacity to investigate and prosecute

347. In States of this subregion, the Office of the Prosecutor-General generally has the authority to handle criminal prosecutions in terrorist crimes. Only one State has clearly demonstrated in practice that its prosecution authority has the capacity, expertise, technical means and human resources required to handle complex terrorism cases. It appears that the remaining States have either suffered from terrorist acts only to a limited extent or not at all. In the case of one State, concerns have been raised that the imposition of austerity measures may have impaired the capacity to prosecute. In one State, the number of foreign terrorist fighters is far greater than elsewhere in the subregion and returnees have been prosecuted for terrorist acts. All States should adjust their criminal law systems in order to comply with the requirement of paragraph 6 of resolution 2178 (2014) to establish criminal responsibility to enable the prosecution of foreign terrorist fighters should existing criminal legislation adopted in implementation of resolutions 1373 (2001) and 1624 (2005) be insufficient, while fully complying with international human rights law and rule of law standards.

348. In all States, law enforcement authorities conducting criminal investigations (including into terrorism-related cases) and prosecutors' offices are empowered to use a wide range of special investigative techniques, regulated by various pieces of legislation, such as codes of criminal procedure, police acts or other types of law. Measures limiting international human rights and constitutional rights and freedoms are subject to court authorization (either before or after the application of a special investigative technique) or to the authorization of the Prosecutor-General.

5. Activating international cooperation

(a) Effective mutual legal assistance and extradition

349. States that are members of the Council of Europe have published their guidelines on domestic laws and procedures relating to mutual legal assistance and extradition in terrorism cases, both on the Council's website and/or on their respective Government websites. The European Union member States of Eastern Europe also cooperate through various mechanisms, including the European Judicial Network, with other States of the European Union, participating candidate States, and associated States. All States have designated a national central authority (apart from diplomatic channels), such as the Ministry of Justice and/or Office of the Prosecutor-General, which is responsible for processing extradition requests and requests for mutual legal assistance. In some States, the judiciary is also involved.

(b) Ensuring effective exchange of information and intelligence

350. Regional cooperation among European Union member States, candidate States and associated States is based on agencies such as Europol, Eurojust, FRONTEX, the European Judicial Network, the Financial Intelligence Unit Network and the Schengen Information System, which have demonstrated capacity to provide platforms for closer cooperation, not only within the European framework, but also with non-European Union States. The main agency for intelligence cooperation is the European Union Intelligence Analysis Centre.

351. It is essential that all States continue to strengthen coordination and (intelligence and operational) information exchange and enter into bilateral cooperation agreements with non-European States to counter terrorist threats and activities that transcend the Commonwealth of Independent States region and the European Union. States of the subregion may also wish to consider concluding agreements on the transfer of criminal proceedings and the recognition of foreign criminal judgements and increasing the number of bilateral extradition and agreements on mutual legal assistance in order to broaden the scope of criminal justice cooperation, including on foreign terrorist fighters.

352. There is also room for improved cooperation at the international level, primarily within the framework of INTERPOL databases. Not all States of the subregion systematically populate INTERPOL databases, including the foreign terrorist fighter database. Only very few States use an advance passenger information system, which can be an effective tool in preventing the travel of foreign terrorist fighters, other terrorists and individuals engaged in transnational organized crime, especially when used in conjunction with INTERPOL databases.

Western European, North American and other States (Andorra, Australia, Austria, Belgium, Canada, Cyprus, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Israel, Italy, Liechtenstein, Luxembourg, Malta, Monaco, Netherlands, New Zealand, Norway, Portugal, San Marino, Spain, Sweden, Switzerland, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America)

A. Terrorist and threat environment

1. Trends (including foreign terrorist fighters)

353. The terrorist threat to many States of this subgroup has significantly increased since the previous report. At least one third of States have suffered from successful or thwarted terrorist attacks in their territories or against their institutions or assets abroad. Thousands of foreign terrorist fighters have left States of this subgroup, or transited through them to conflict zones. Some returnees or individuals inspired by terrorist activity in Iraq and the Syrian Arab Republic have carried out terrorist acts in Western European and North American Member States or in States far from conflict zones where terrorist groups are active, such as Australia. The terrorist threat level has increased in a few States of this subgroup, and some States have faced unprecedented levels of right-wing terrorist violence over the past four years.

2. Risks

354. Member States of this subgroup — especially those that have suffered from terrorist activity — are aware of the security threat and have taken a range of measures in response. However, their counter-terrorism measures must keep pace with the speed with which individuals move from radicalization to actual extremist and terrorist violence. The ubiquity of the Internet and social media pose a significant challenge in this regard, as they are used to spread the terrorist narrative. Member States of this subgroup may be roughly divided into those that follow a more repressive law enforcement and intelligence-based response, on the one hand, and those that rely on a more inclusive approach that emphasizes softer measures, such as countering violent extremism, on the other. All these measures should be implemented in a manner that is compliant with States' obligations under international law, including human rights law, and that does not trigger situations conducive to terrorism. Few States have fully implemented the requirements of resolutions 1373 (2001) and 1624 (2005) that are relevant to stemming the flow of foreign terrorist fighters in accordance with resolution 2178 (2014).

3. Priority issues/recommendations

- Continue to cooperate and exchange information, both within the relevant subregional bodies such as the European Union and bilaterally
- Develop comprehensive integrated counter-terrorism strategies wherever none are yet in place. The European Union member States of the subregion should consider drafting national strategies based on the European Union Counter-Terrorism Strategy and the European Union Strategy for Combating Radicalisation and Recruitment to Terrorism
- Adopt legislation to more effectively criminalize recruitment to terrorism, especially through the adoption of specific legislation to criminalize passive recruitment and passive (receipt of) terrorist training, in accordance with resolution 2178 (2014)
- Adopt counter-terrorism financing laws that are fully compliant with paragraph 1 (b) of resolution 1373 (2001)
- Strengthen regimes for the freezing of terrorist funds without delay
- Take steps to minimize the vulnerability of the non-profit sector to terrorist financing
- Connect front-line police and border control officers to the INTERPOL I-24/7 Stolen and Lost Travel Document database, Red Notices, and other available tools, as well as United Nations sanctions
- Populate the relevant INTERPOL databases systematically and introduce advance passenger information systems
- Enhance bilateral and regional cooperation with States in North Africa and Western Asia, including by considering the use of transfer of criminal proceedings and the recognition of foreign criminal judgements, while ensuring full compliance with international human rights law and rule of law standards.

B. Areas of assessment

1. From prevention to rehabilitation

(a) Comprehensive counter-terrorism strategies (subregional and national)

355. With few exceptions, Member States of this subgroup have not adopted an integrated and comprehensive national counter-terrorism strategy. Instead, most have taken measures that reflect a combination of political, law enforcement, border-security, intelligence service, judicial, humanitarian, civil protection, countering violent extremism, economic and financial actions at the national level and have translated them into national counter-terrorism strategies or action plans that are sectorial in nature. Governments of European Union member States often do not feel the need to adopt comprehensive counter-terrorism strategies at the national level because they rely on the European Union Counter-Terrorism Strategy and the European Union Strategy for Combating Radicalisation and Recruitment to Terrorism. Nonetheless, those States should consider domesticating the European strategy in order to provide a national standard that can be effectively monitored and evaluated with a view to keeping track of the specific nature of the respective domestic context. All States lacking a comprehensive integrated counter-terrorism strategy should adopt a strategy that foresees cooperation with non-governmental entities and addresses the conditions conducive to the spread of terrorism, in accordance with the United Nations Global Strategy (General Assembly resolution 60/288).

(b) Human rights

356. Most States of this subgroup have a relatively positive human rights record, overall. All but one are States parties to all the core international human rights instruments and engage in robust dialogue with the treaty-based and Charter-based international human rights mechanisms. All Western European member States are also member States of the Council of Europe and are subject to the jurisdiction of the European Court of Human Rights. However, there remain contentious issues (e.g., use of armed drones to target terrorists, prolonged detention without trial, and revocation of citizenship that may render the individual Stateless).

357. Almost one third of States do not have in place independent oversight mechanisms for law enforcement agencies (apart from judicial oversight). For most States, oversight mechanisms can take various forms, depending on the legal tradition: parliamentary committee, ombudsperson, Inspector-General of police or public administration in general, Prosecutor-General, Chancellor of Justice, independent police (complaints) commissions, or a combination of more than one of these. The Netherlands, for example, combines judicial and executive oversight in one body. Commonwealth States have also established independent institutions for the review of national security legislation.

358. Most European Union member States have modelled their definition of terrorist acts on article 1 of European Union Council Framework Decision 2002/475/JHA. The conduct criminalized as terrorist thus goes beyond that which is covered by paragraph 3 of Security Council resolution 1566 (2004). Very few States have included an express exclusion within the definition of terrorist acts for conduct in exercise of human rights, such as the rights to freedom of association or assembly. In some cases, concerns have been raised about overbroad definitions contained in legislation criminalizing terrorist conduct. In some cases, international

human rights mechanisms have also expressed concerns about length of trial, length of pretrial detention, the right to be brought promptly before a judge following arrest, access to a lawyer, the presumption of innocence, the right to appeal a verdict, and allegations of ill-treatment.

2. Addressing enablers

(a) Intent and knowledge

359. Around 50 per cent of the States of this subgroup have adopted legislation specifically criminalizing active terrorist recruitment. However, some have limited the offence to recruitment into a terrorist organization or group and have not extended criminal responsibility to include recruitment for the commission of an individual act of terrorism in a sui generis offence. Other States have yet to pass criminal laws to counter recruitment for terrorist purposes. Very few States have made passive recruitment a criminal offence. Few States subsume terrorist recruitment activities into broader notions such as criminal conspiracy, (material) support, solicitation, promotion, assistance of a terrorist nature, or participation in a terrorist organization. The legislative framework for the criminalization of recruitment could be strengthened in some States, especially in the light of resolution 2178 (2014). It would be beneficial for almost all States of this subgroup to adopt specific legislation to criminalize passive recruitment.

360. Some States of Western Europe criminalize glorification, in some cases without specifying the requirement of the creation of a danger. To counter incitement, the European Union has also advocated strongly in favour of community policing. Its "Community Policing Preventing Radicalisation and Terrorism" project identified six elements of effective community policing, as follows: (a) attentiveness; (b) reliability; (c) responsiveness; (d) competence; (e) manners; and (f) fairness. Other non-European Union member States have taken a wide range of measures to counter incitement, including through the Internet. These measures include legislative prohibitions to incitement and strategies on countering violent extremism. Most States still face challenges in tackling terrorist propaganda disseminated through the Internet and social media. States should continue to undertake effective measures to prohibit and prevent incitement to commit terrorist acts, including via the Internet and other social media, while also safeguarding relevant human rights, including the right to freedom of expression, and religion or belief.

(b) Means

(i) Financing/freezing of assets

361. All States have robust legislation in place criminalizing terrorism financing as a stand-alone offence. However, the legislation of a few States either does not meet the requirement to criminalize terrorist financing, even if the funds cannot be linked to a specific terrorist act or is not couched in sufficiently broad terms to cover the financing of travel of foreign terrorist fighters. The laws of around a quarter of States lack either the element of the financing of an individual terrorist or that of the financing of a terrorist group (including for other purposes than for the commission of a terrorist act specifically). Perhaps the foremost challenge for half the States of this subgroup remains compliance with the requirement to freeze terrorists funds without delay, pursuant to resolution 1373 (2001), whether because an appropriate legislative framework is absent or not properly implemented. In the case of one

State, the freezing process may take up to three months. This clearly does not meet international "without delay" standards.

362. European Union member States implement their freezing obligations pursuant to the directly applicable Council regulations No. 881/2002, as amended, on Al-Qaida and affiliates, and No. 2580/2001, in relation to resolution 1373 (2001), respectively. In some cases, States lack the complementary domestic legislation required to address the fact that regulation 2580/2001 is not applicable to European Union internals. All States except one have a declaration or disclosure scheme in place to detect the illicit physical cross-border transportation of currency. European Union States rely on the directly applicable European Union Council regulation 1889/2005. In most States, the relevant laws are applied effectively. Only around a quarter of States of this subgroup have conducted a specific review of the terrorist financing risk to their non-profit organization sectors. Few States have incorporated such a review into a broader assessment of the risk of the entire financial sector to money-laundering and terrorist financing or conducted a review of their non-profit organization legislation.

(ii) Firearms

363. All States criminalize the illicit manufacturing and trafficking of firearms. To varying degrees, States also have introduced appropriate criminal legislation to address the illicit alteration of firearms and/or the illicit obliteration of their markings.

3. Opportunity and border security

364. Even though no State has adopted legislation specifically addressing the smuggling of terrorists into their territories, all have in place laws criminalizing the illegal entry or residence of aliens, the smuggling of migrants or human beings, or trafficking in human beings. A number of States also specifically define the harbouring of terrorists as terrorist activity in their criminal legislation or cover relevant conduct under "provision of assistance or support to terrorists".

365. Only a few States of this subregion have fully connected their immigration screening processes at the front line to the INTERPOL Stolen and Lost Travel Document database and Red Notices and to United Nations sanctions lists. Half of the States frequently populate the INTERPOL Stolen and Lost Travel Document database, but only one of those States belongs to the group of States with full connectivity. A further third of States are believed to have the capacity to effectively screen travellers at ports of entry. Another good third lack this capacity. Less than a quarter of States systematically record and store data on the entry and exit of persons crossing their borders using an automated system. Around one quarter of States of Western Europe and North America fully implement the WCO Framework of Standards. Another quarter of States are working towards its implementation, having either signed letters of intent or conducted feasibility or preparatory studies.

366. Most States of this subgroup have established a refugee-status determination procedure that prevents the granting or revocation of asylum to an individual involved in terrorist activity, usually under a broader exclusionary notion of a threat to public security or *ordre public*. One State has not introduced legislation on the right to asylum, but has incorporated the European Convention for the Protection of Human Rights and Fundamental Freedoms into its domestic laws, as directly

applicable. Virtually all States have been criticized by international human rights mechanisms for failing either to fully observe the principle of non-refoulement or to observe all procedural safeguards in asylum proceedings or extradition, expulsion and deportation cases in law and/or practice. In one case, irregular entries are automatically presumed by law to constitute a risk to the security of the State and subject to deportation or expulsion without observing safeguards. International human rights mechanisms have identified this to be in contravention of international human rights law. Many States have accepted the recommendations of these mechanisms and taken remedial action. All States should continue their dialogue with all treaty and Charter-based international human rights mechanisms.

4. Bringing terrorists to justice

(a) Planning and preparation

367. All States have established in national legislation specific provisions that criminalize terrorist acts of planning, preparation, facilitation, support, including financial support, for terrorist acts, or conspiracy to commit terrorist acts, or are able to prosecute such conduct on the basis of general criminal provisions of aiding and abetting or similar notions of assistance. Incitement to terrorism and active training for terrorist purposes is criminalized by most States. Passive training is criminalized only in a few. All States whose laws are not fully inclusive in this regard should review, and if necessary, amend them accordingly. Most States extend their jurisdiction to terrorism offences (including preparatory and accessory acts) committed against another State (or international organization) or by their own nationals, regardless of the location where the offence was committed. Few States have in their definition of a terrorist act conduct that is directed against another State or foreign entity.

(b) Foreign terrorist fighter travel element

368. With respect to implementing the criminalization requirements of resolution 2178 (2014), several of the Member States surveyed have complied fully with the legislative requirements under the resolution by adopting new or amending existing criminal legislation. Some applied existing criminal counter-terrorism legislation, including for recruitment and participatory acts, pursuant to general criminal law provisions. Some have supplemented existing laws with further amendments to cover preparatory acts that may lead to travel to join the conflicts in Iraq and the Syrian Arab Republic. For the European Union's member States and members of the Council, the Additional Protocol to the Council of Europe Convention on the Prevention of Terrorism require Member States to criminalize the receiving of terrorist training and the provision of such training.

(c) Capacity to investigate and prosecute

369. Criminal prosecutions (including of terrorist crimes) conducted in the States of this subgroup are often based on preliminary investigations carried out by law enforcement authorities under the supervision and instructions of the prosecution or investigating judge. Those States that have suffered from terrorist acts in their jurisdictions and conducted criminal investigations and prosecutions generally possess the authority, capacity, expertise, technical means and human resources required to handle complex terrorism cases. A number of States have been involved

to varying degrees in prosecuting and trying foreign terrorist fighter-related terrorism cases. Since this is a relatively new phenomenon for many of the States surveyed, and in view of the fact that paragraph 6 of resolution 2178 (2014) in some instances requires States to advance criminal responsibility further than required by resolutions 1373 (2001) and 1624 (2005), some States have struggled with the application of appropriate criminal laws and faced related evidentiary challenges. Member States should be vigilant about these experiences and adjust their criminal law systems if necessary, including with a view to achieving full compliance with international human rights law and rule of law standards.

370. The investigative and prosecutorial authorities of most States have developed a sophisticated arsenal of special investigative techniques that are to be found in codes of criminal procedure, separate legislative acts or in police acts and may also be applied for preventive purposes in some States. Intrusive measures are mostly subject to court authorization, which is a good practice, unless there is danger in delay (in which case the measure is generally authorized by the prosecution for ex post facto approval by a court).

5. Activating international cooperation

(a) Effective mutual legal assistance and extradition

371. All States have developed and published guidelines on domestic laws and procedures relating to mutual legal assistance and extradition in terrorism cases. Accessibility of mutual legal assistance and extradition guidelines and information in the non-European States in this subgroup is considered to be a good practice. A comprehensive collection of such guidelines developed by Council of Europe member States is available on the Council's website. European Union member States, participating candidate States and associated States also cooperate through various mechanisms on mutual legal assistance and extradition. The European Judicial Network offers additional information. All States have designated a national central authority (separate from diplomatic channels) that is responsible for processing extradition requests and requests for mutual legal assistance. These authorities are located either in the Ministry of Justice, the Ministry of the Interior or the Office of the Prosecutor or Attorney-General. Many States have more than one national central authority to handle different types of request.

(b) Ensuring effective exchange of information and intelligence

372. Regional cooperation among European Union States, candidate States and associated States is conducted through agencies such as Europol, Eurojust, FRONTEX, the European Judicial Network, the Financial Intelligence Unit Network and the Schengen Information System, which have the demonstrated capacity to provide platforms for closer cooperation not only within the European framework, but also with non-European Union States, including those of this subgroup. The main agency for intelligence cooperation is the European Union Intelligence Analysis Centre. Although coordination and (intelligence and operational) information exchange is strong within the broader European Union context, it is essential that Member States continue to enter into bilateral cooperation agreements with non-European States to counter the terrorist threat and activities that transcend European Union borders. Member States may also consider concluding agreements on the transfer of criminal proceedings and the recognition

of foreign criminal judgements with non-European Union Member States and enter into more bilateral agreements on extradition and mutual legal assistance with non-European Union States in order to broaden the scope of criminal justice cooperation, including on foreign terrorist fighters.

373. There is also room to strengthen cooperation at the international level, first and foremost through the various INTERPOL databases. Not all States of this subgroup systematically populate INTERPOL databases, including its database on foreign terrorist fighters. Fewer than half the States of the subgroup use an advance passenger information system.

South-East Europe (Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Montenegro, Romania, Serbia, Slovenia, the former Yugoslav Republic of Macedonia)

A. Terrorist and threat environment

1. Trends (including foreign terrorist fighters)

374. South-East Europe is a major transit route for people, funds, arms, and goods from Africa, Central Asia and the Middle East to Europe. Despite improved border management and considerable investment in infrastructure, human resources and subregional cooperation, refugees and asylum seekers from other parts of the world — and in particular conflict zones — continue to use this subregion to access the European continent. The resulting pressures have created a crisis situation that requires an urgent subregional and global response.

375. The subregion is also a transit route for foreign terrorist fighters on the way to Iraq and the Syrian Arab Republic. Preventing the movement of suspected foreign terrorist fighters is perhaps the second-biggest challenge for this subregion. Many States are either origin or transit States for foreign terrorist fighters. The number of foreign terrorist fighters leaving States of the subregion to join terrorist organizations in the Syrian Arab Republic and Iraq continues to grow. The subregion is also extremely vulnerable to radicalization and recruitment. Economic challenges, high unemployment levels, historic grievances and lack of trust in Government make some States of the subregion more vulnerable than others to foreign terrorist fighter recruitment.

2. Risks

376. The risks to the subregion primarily relate to the movement of foreign terrorist fighters. Many of those who have travelled to conflict zones may choose to return and continue their terrorist activities, including recruitment. Some may choose to recruit from their States of destination. Because of the massive flows of refugees into and from the subregion, the screening of refugees is a particular challenge. The relative lack of border-management cooperation increases the risk of infiltration by terrorists. Since conditions conducive to the spread of terrorism do exist in some States of this subregion, it is likely that incitement and recruitment to join terrorist groups will continue. Regional cooperation is undermined by long-standing bilateral

tensions. The major challenges include potential links between organized crime and terrorism and the vulnerabilities and weaknesses in the financial system.

3. Priority issues/recommendations

- Strengthen measures to enhance border security, including through increased use of the INTERPOL I-24/7 system and advance passenger information systems
- Work at the national and subregional levels to prevent radicalization and recruitment by strengthening countering violent extremism efforts and preventing terrorist exploitation of the Internet and social media
- Engage with civil society, local communities, places of education and worship, and religious leaders in countering violent extremism
- Develop comprehensive and integrated national counter-terrorism strategies based on a holistic and inclusive approach that includes a countering violent extremism component
- Work with the charitable sector to prevent the abuse of non-profit organizations and charities for terrorism-financing purposes
- Enhance cooperation in criminal matters within the subregion and with other regions.

B. Areas of assessment

1. From prevention to rehabilitation

(a) Comprehensive counter-terrorism strategies (subregional and national)

377. Some States of this subregion have developed national counter-terrorism strategies. Serbia recently initiated consultations, with the support of OSCE, on the development of a national comprehensive and integrated counter-terrorism strategy. Bosnia and Herzegovina adopted a national counter-terrorism strategy in 2015. However, the implementation of national strategies should be improved, and more focus should be given to preventive aspects, including in particular incitement to terrorism and the threat of radicalization leading to violent extremism. Most States have recently enacted counter-terrorism legislation and have introduced relatively comprehensive legal frameworks. Four States continue to demonstrate substantial shortfalls in the codification of the international terrorist offences

(b) Human rights

378. All States have recently adopted counter-terrorism legislation, criminal codes and codes of criminal procedure, whether with the support of the United Nations Office on Drugs and Crime and/or OSCE or within the framework of European integration. Even though all States of the subregion are parties to the Refugee Convention, international human rights mechanisms have raised concerns about the treatment of migrants, asylum seekers and refugees.

2. Addressing enablers

(a) Intent and knowledge

379. Good progress has been made in the criminalization of recruitment to terrorism. All States are parties to the Council of Europe Convention on the Prevention of Terrorism. Most have also adopted practical and preventive measures against terrorist recruitment, which is currently an area of particular vulnerability. In 2014, one Member State amended its criminal law to criminalize the joining of foreign military conflict. Several individuals have recently been convicted on the basis of this legislation. However, all States need to review, and consider updating, their legislation in order to ensure that it criminalizes recruitment of foreign terrorist fighters.

380. States of the subregion need to strengthen efforts to counter recruitment and violent extremism, particularly via the Internet and social media. Most States of the subregion have yet to develop and implement comprehensive and integrated national strategies that include community-supported countering violent extremism programmes. The European Union recently pledged 10 million euros to support countering violent extremism programming, including in South-East Europe.

(b) Means

(i) Financing/freezing of assets

381. All States are parties to the International Convention for the Suppression of the Financing of Terrorism, and all have adopted anti-money-laundering/counter-financing of terrorism laws in recent years. All States included financing of terrorism as predicate offences and extended reporting obligations to include financing of terrorism. Most recent legislation has been drafted with technical assistance. States of the subregion continue to develop their regulatory systems in an effort to effectively implement the financial aspects of resolution 1373 (2001) in order, for example, to comply fully with the requirement to freeze terrorist funds without delay.

382. One challenge common to States of the subregion is the handling of non-profit organizations and prevention of their misuse for terrorism financing. Such organizations play an important role in this subregion. Although all States have legislation in place to regulate charitable organizations, the level of regulation and supervision is not high. No State has reviewed its non-profit organization sector or conducted a risk assessment for potential terrorism-financing abuse. States of the subregion benefit from technical assistance provided in this area by OSCE and the Council of Europe, but need to attach higher priority to this risk in order to comply with the relevant requirements of resolution 1373 (2001) and the relevant recommendations of the Financial Action Task Force.

(ii) Firearms

383. All States criminalize the illicit manufacturing and trafficking of arms. At least four have not directly criminalized the alteration of firearms or the illicit obliteration of their markings. Unlawful possession and trafficking in arms remains a challenge for the subregion, despite national and international efforts to curb and minimize illicit stockpiles of arms from past conflicts. In several cases, planned

terrorist attacks have relied on arms trafficked from South-East Europe to other parts of the continent.

3. Opportunity and border security

384. South-East Europe has been affected by the conflicts in the Middle East, North Africa and the Horn of Africa. These conflicts have led to massive flows of refugees and asylum seekers, who use South-East Europe as either a final destination or as a gateway to Europe. In response, most States of the subregion have adopted modern asylum laws. However, most Balkan States lack the capacity and mechanisms to handle the massive flows of refugees and migration while also respecting their rights under international law, including refugee law.

385. Immigration screening processes are conducted with the use of INTERPOL "I-24/7" system, including the Stolen and Lost Travel Document database, and in cooperation with INTERPOL National Central Bureaux and law enforcement agencies. However, the pace of migration has increased over the past two years to the point where it poses challenges for most States of the subregion. Moreover, most States face considerable challenges in identifying suspected terrorists or returnees. Continued instability in States of the Middle East and North Africa exacerbates the potential threat posed by immigrant and refugee flows. Only three States use an advance passenger information system, the lack of which undermines the efforts of front-line officers to detect entering or exiting wanted persons or foreign terrorist fighters.

4. Bringing terrorists to justice

(a) Planning and preparation

386. States of the subregion continue to develop their counter-terrorism capacity in all areas, including by updating their legislation and enhancing the capacity of their judicial, prosecutorial, financial and law enforcement bodies. Despite this progress, however, the capacity of Member States' prosecutorial and judicial authorities needs to be further strengthened. Moreover, international, regional and subregional organizations need to continue investing in the training of prosecutors and judges and in strengthening States' capacity to bring terrorists to justice. As the subregion becomes more and more vulnerable to foreign terrorist fighter travel and recruitment, donors are expressing growing interest in supporting efforts to bring foreign terrorist fighters to justice.

(b) Foreign terrorist fighter travel element

387. Several States began the process of reviewing and amending their criminal legislation following the adoption of Security Council resolution 2178 (2014). Few States of the region have the capacity and commitment to bring foreign terrorist fighters to justice. One, for example, has arrested three nationals suspected of foreign terrorist fighter-related offences. Another State arrested seven individuals on suspicion of involvement in recruitment to fight in the Syrian Arab Republic in March 2015. A third State arrested nine returnees in late 2015. For European Union member States and members of the Council, the Additional Protocol to the Council of Europe Convention on the Prevention of Terrorism requires States to criminalize the receiving of terrorist training and the provision of such training. Several States of the subregion also need to review their national legislation to ensure that criminal

procedural and evidentiary rules allow for the broad collection and use of evidence against foreign terrorist fighters, while respecting international human rights and rule of law obligations.

(c) Capacity to investigate and prosecute

388. All States of the subregion have functioning investigative authorities and a functioning prosecution service. All have also benefited from assistance in developing their investigative and prosecutorial capacities. However, even States that have received assistance should continue to benefit from training initiatives in this area, with respect in particular to handling complex terrorism investigations, financial crimes, and identifying links between organized crime and terrorism. Four States (Albania, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia and Serbia) have successfully prosecuted foreign terrorist fighters and prevented their travel.

5. Activating international and subregional cooperation

(a) Effective mutual legal assistance and extradition

389. The level of ratification of the international counter-terrorism instruments remains relatively high, and most States have introduced adequate provisions on extradition and mutual legal assistance. Regional cooperation in criminal matters is facilitated through the South-East European Prosecutors Advisory Group, which is a network of experienced prosecutors who assist in operational matters and facilitate the rapid exchange of information and evidence in cross-border investigations. In view of the challenges posed by the foreign terrorist fighter phenomenon, Member States of South-East Europe, the Middle East, North Africa and the Horn of Africa should take steps to enhance cooperation in criminal matters. The establishment of central authorities with the necessary means to cooperate with States of other subregions should be further pursued.

(b) Ensuring effective exchange of information and intelligence

390. Subregional cooperation continues to improve, including through the establishment or strengthening of several subregional cooperation mechanisms, including the South European Law Enforcement Centre for law enforcement cooperation. The Centre and the South-East European Prosecutors Advisory Group benefit from a subregional convention that authorizes advanced cooperation methods, including joint investigations. All regional and subregional mechanisms have worked to enhance subregional cooperation in counter-terrorism, including with respect to foreign terrorist fighters. In February 2015, the Ministers for Foreign Affairs of South-East Europe adopted a joint declaration on terrorism that pays particular attention to foreign terrorist fighters. However, despite these major achievements, several factors continue to impede cooperation in South-East Europe. Those factors include long-standing bilateral tensions that may undermine the will to cooperate in matters requiring cross-border cooperation and thus may have implications for States' capacity to counter terrorism effectively. Cooperation is also hampered by links between organized crime and terrorism and vulnerabilities and weaknesses in the financial system that could be used for terrorism-financing purposes.

IV. Thematic outlook

A. National comprehensive and integrated strategies (subregional and national)

391. Pursuant to paragraph 6 of Security Council resolution 1963 (2010) and paragraph 18 of Security Council resolution 2129 (2013), the Counter-Terrorism Committee Executive Directorate has continued its dialogue with Member States aimed at advising them, as appropriate, on the development of comprehensive and integrated national counter-terrorism strategies and the introduction of implementing mechanisms that include attention to the factors that lead to terrorist activities. In doing so, the Executive Directorate has continued its close cooperation with the Counter-Terrorism Implementation Task Force, in particular through the Task Force's Working Group on National and Regional Counter-Terrorism Strategies, of which the Executive Directorate and the Task Force are co-chairs.

392. Most national counter-terrorism strategies developed by Member States thus far tend to focus too narrowly on law enforcement measures. Although such strategies can be effective to a degree, they do not include the many other preventive measures necessary to address measures conducive to terrorism. Today, terrorists are able to bypass law enforcement and employ other methods such as recruitment via the Internet and social media. This poses significant challenges to law enforcement and increases the overall threat. Therefore, national strategies should seek to strengthen the resilience of the population through a balanced, multidisciplinary approach that integrates law enforcement measures and measures to address the socioeconomic, political, educational, developmental, human rights and rule of law dimensions.

393. In conducting assessment visits on behalf of the Counter-Terrorism Committee, the Counter-Terrorism Committee Executive Directorate has informed a number of States about the need to adopt a national comprehensive and integrated counter-terrorism strategy that engages a wide range of stakeholders. The Executive Directorate has also held regional events, in close cooperation with the United Nations Counter-Terrorism Centre of the Counter-Terrorism Implementation Task Force, to encourage States to adopt such strategies. The Executive Directorate has also identified several Member States that have employed a comprehensive and a multidisciplinary approach that includes law enforcement and security actors, as well as departments and ministries of culture, education, science and development; civil society; religious leaders; the business community; and the media. This is a good practice that could be considered by other States in developing their respective comprehensive counter-terrorism strategies. With respect to States in need of advice in developing their strategies, the Executive Directorate provides them, upon request, with its compilation of good practices and a draft model national strategy that reflects the provisions of the United Nations Global Counter-Terrorism Strategy at the national level. In advising Member States, the Executive Directorate also uses the guiding principles for counter-terrorism strategies, as identified at the International Conference on National and Regional Counter-Terrorism Strategies, held in Bogotá in 2013, which was jointly organized by the Executive Directorate and the Task Force and sponsored by the Counter-Terrorism Centre.

394. The European Union has developed a regional counter-terrorism strategy that is based on four pillars: prevent, protect, pursue and respond. Several European

Union member States use this strategy at the national level in order to ensure a comprehensive approach. The Economic Community of West African States (ECOWAS) has also developed a regional counter-terrorism strategy, whose main purpose is to prevent terrorism in West Africa and thereby create conditions conducive to sound economic development. The Counter-Terrorism Implementation Task Force Working Group on National and Regional Counter-Terrorism Strategies has also developed two regional counter-terrorism strategy projects, in Central and Southern Africa, respectively, sponsored by the United Nations Counter-Terrorism Centre. The Executive Directorate also actively supports implementation of the Joint Plan of Action for the implementation of the Global Strategy in Central Asia, which was developed by the Counter-Terrorism Implementation Task Force, together with the United Nations Regional Centre for Preventive Diplomacy in Central Asia. Member States and regional organizations should actively consider developing comprehensive and integrated counter-terrorism strategies that include a wide range of stakeholders, including law enforcement agencies, civil society, the media, academia, religious leaders and educators.

B. Legislation

395. One of the key elements of resolutions 1373 (2001) and 2178 (2014) is the requirement to introduce comprehensive counter-terrorism legislation. Since the adoption of resolution 1373 (2001), most Member States have taken steps to criminalize terrorist acts in accordance with the international counter-terrorism instruments. Although most States have taken significant steps to develop an appropriate legal framework, progress has been more limited in certain regions. Most States of the Western European, Eastern European, Central Asian and Caucasus subregions have introduced comprehensive counter-terrorism legislation. However, in subregions where progress is still required, the degree to which the offences have been fully codified varies significantly and continues to require attention.

396. In accordance with the evolution of the preventive approach to terrorism, a number of Security Council resolutions require Member States to criminalize preparatory acts, including planning, aiding and abetting aimed at the commission of terrorist offences. These basic legislative measures must be supported by adequate jurisdiction to ensure that domestic courts are competent to deal with potential offenders. Most Member States do not have comprehensive criminal offences in place to prosecute preparatory or accessory acts conducted in the State with the aim of committing terrorist acts against other States or their citizens outside the State's territory. Average compliance with the criminalization requirements of the resolution is "partial".

397. When criminalizing offences in accordance with the relevant Council resolutions, Member States are obliged to uphold human rights. Compliance with human rights creates trust in the criminal justice system and supports the broader preventive strategy. The Committee's assessments reveal a number of shortcomings in States' efforts to respect human rights, including vague and overly broad definitions of terrorism offences, the use of counter-terrorism laws to repress human rights defenders, excessive restrictions on the right to freedom of expression, torture and ill-treatment, and lack of law enforcement oversight. Member States should be

aware that these shortcomings may be exploited by terrorists for recruitment purposes.

398. Security Council resolution 1373 (2001) requires Member States to suppress recruitment for terrorism. There have been improvements in the criminalization of terrorist recruitment, over recent years, but information concerning the strategies and resources put in place to suppress recruitment is generally lacking. One area of notable progress is the introduction of legislation authorizing the use of special investigative techniques. Since the adoption of the resolution, many States have enacted legislation authorizing the use of such techniques. The available information does not, however, make clear whether all States have the capacity to use such techniques effectively and whether the use of such techniques ensures full respect for human rights and the rule of law. Past assessments have shown that ensuring the effective use of such techniques in compliance with human rights is a global challenge. Many States require assistance in developing effective techniques and mechanisms for ensuring coordination by intelligence, law enforcement and prosecution and respecting the rule of law and human rights.

399. Council resolution 2178 (2014) requires Member States to "ensure that their domestic laws and regulations establish serious criminal offences sufficient to provide the ability to prosecute and to penalize in a manner duly reflecting the seriousness of the offence". The Committee's assessments show that most assessed States do not criminalize the facilitation (including organizing, transporting and equipping) of foreign terrorist fighter travel. Most other States rely instead on broad counter-terrorism legislation to address this requirement. Assessed States also demonstrate lower levels of compliance relating to providing and receiving terrorist training. Overall, the assessment reveals that "providing training" is criminalized more than "receiving training". One explanation for this phenomenon may be that most States criminalize the provision of training under existing regional tools (e.g., the Council of Europe Convention on the Prevention of Terrorism). Another explanation may be that the concept of "receiving training" is extremely broad. It may range from simply downloading a booklet from the Internet or downloading details of paramilitary exercises. Criminalization can thus raise questions regarding respect for human rights.

C. Criminal justice

400. Council resolution 1373 (2001) requires Member States to ensure that any person who participates in the financing, planning, preparation or perpetration of terrorist acts, or in supporting terrorist acts, is brought to justice. The resolution also charges the Counter-Terrorism Committee with monitoring and promoting implementation of the resolution. The Committee's assessments have shown that these requirements pose major challenges for States' criminal-justice systems. Because the prosecution of counter-terrorism cases relies on specific skills and expertise, States' investigative, prosecutorial and judicial authorities have been forced to develop ways to deal with the increasing complexity of such cases, which are often challenging. Most States visited by the Committee continue to experience difficulties in their efforts to implement these requirements. In their efforts to implement the resolution's comprehensive criminal-justice requirements, States should take steps to enhance the capacities of the prosecution and the judiciary. Many States continue to face challenges in their efforts to staff prosecution services

and the judiciary with skilled prosecutors and judges and to provide them with the necessary technical resources and training. In this regard, States should enlist the support of donors and providers of technical assistance, where appropriate.

401. The foreign terrorist fighter phenomenon presents specific criminal justice challenges. Among the main challenges identified by the Committee are the use of classified information as evidence (including admissibility as evidence), investigation methods, collection of evidence from States of destination, international cooperation, the use of sophisticated technology by terrorists, conducting effective financial investigations, and links between terrorism and other forms of criminality.

402. One key challenge in dealing with counter-terrorism cases derives from the fact that much information is generated by intelligence agencies. Relying on such intelligence without disclosing it to the defence stands in clear contrast to fundamental human rights principles. Since the previous survey, assessments show that many Member States still struggle to build working relationships between intelligence agencies and the criminal justice system. There is a need to develop good practices aimed at using intelligence or the products of special investigative techniques in court without exposing sources or methods while providing for full respect for the rights of the accused (S/2015/123). States hold differing views as to how this can be achieved. With increasing numbers of foreign terrorist fighters travelling to and from conflict zones, judicial authorities in many States are concerned with gathering admissible evidence from conflict zones. There are many legal problems associated with the collection of evidence in States of destination, likely conflict zones, and areas where the military may play a role. The Committee's assessments show that even high-capacity States rely primarily on evidence collected domestically to prosecute foreign terrorist fighters and that very few States are able to rely on such evidence in their efforts to bring them to justice. The Counter-Terrorism Committee Executive Directorate continues to raise awareness of these challenges, with a view to identifying practical solutions.

403. The expansion of ISIL and Al-Qaida-affiliated terrorist groups has dramatically changed the nature of the global terrorist threat. The Internet is a key enabler of radicalization and recruitment and a source of practical knowledge. Recruitment through encrypted messages poses difficult challenges for law enforcement and eventually for prosecution. Online encrypted messages by terrorist organizations have urged individuals to conduct terrorist acts or to join ISIL. The previous identified the use of the Internet and ICT as tools for recruitment, incitement and fundraising as a threat that will continue to pose challenges for years to come. Since then, several States have adopted legal provisions that allow for the admissibility of evidence collected from the Internet, and are building ICT and forensic capacities and expertise within national law enforcement agencies. Nevertheless, globally, this remains one of the key prosecutorial challenges to countering terrorism and violent extremism. Member States should develop legislation, guidance and protocols to allow for the effective use of sensitive information in criminal proceedings. In enacting such legislation and developing guidance and protocols, Member States should comply with all their international obligations, including in particular the right to fair trial. Member States should also ensure that their laws allow for the admissibility of evidence collected from the Internet and build ICT and forensic capacities and expertise within national law enforcement agencies.

404. Security Council resolution 1373 (2001) requires States to suppress recruitment for terrorism and resolution 1624 (2005) calls upon States to prohibit incitement. Council resolution 2178 (2014) requires Member States to ensure that their laws establish serious criminal offences sufficient to provide the ability to prosecute and to penalize in a manner duly reflecting the seriousness of the offence, i.e. the wilful organization, or other facilitation, including acts of recruitment, by their nationals or in their territories, of the travel of individuals who travel to a State other than their States of residence or nationality for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts or the providing or receiving of terrorist training.

405. One of the main challenges identified by the Committee's assessments is that, in some Member States, the use of "preventive offences" is applied without full respect for several criminal law principles (e.g., the necessary precision of criminal law). The principle of legality also entails the principle of certainty (i.e., that the law is reasonably foreseeable in its application and consequences). Another criticism is that such offences may be of a "catch-all nature" (allowing prosecutors to go "fishing" for offences and not allowing the defence detailed knowledge of the case). Although prevention of terrorism and prosecution of terrorists are two distinct concepts, the Committee has noted, during its interaction with Member States, the interrelationship of effective prosecution and prevention strategies. One challenge identified in this context was to determine when to intervene. The earlier the plot is uncovered, the less evidence there is to be used for court proceedings. The development of a national and comprehensive counter-terrorism strategy can help to inform choices made at the national level as to whether to prevent terrorist attacks by building and prosecuting criminal cases before, during, and after launching a criminal investigation.

406. The greater the number of participants involved in a crime, the greater the opportunity for judicial authorities to intercept the planning, preparation, plotting or implementation of a terrorist act. Judicial authorities are at a disadvantage in cases that involve lone actors or small cells of two or three people, who may be more protected from detection. Opportunities to identify the perpetrator or obtain admissible evidence in advance of an operation may be greatly reduced, although, in practice, most terrorists acting alone or in small cells have a history of having, or having attempted to establish, an association to a radical group, and most have developed contacts with like-minded individuals. Many also have a history of committing petty offences (often related to obtaining material resources).

407. The journey from initial interest to radicalization, commitment, action and, ultimately, to joining a foreign terrorist group, has rapidly accelerated. This further complicates the efforts of the authorities to follow, intercept, investigate and prosecute cases. The time frame has been shortened and the recruitment age is younger. Foreign terrorist fighters include individuals as young as 15 or 16 years old and a significant number of women, and entire families regularly relocate to conflict zones. Authorities are struggling to address these new dimensions on a case-by-case basis. It is not always clear whether women travel to engage in terrorist acts, look for partners, or support their families, or whether entire families can be implicated in the crimes committed. In developing prosecution cases related to foreign terrorist fighters, States rely primarily on existing legislation and some have developed innovative ways to undertake prosecutions.

408. Security Council resolution 2178 (2014) requires Member States to develop and implement prosecution, rehabilitation and reintegration strategies for returnees. Developing such strategies poses a considerable challenge, since insufficient experience has been gained. Prosecutorial agencies need to identify the right balance between rehabilitation and deterrence and to be able to assess the risk posed by returnees. The foreign terrorist fighter phenomenon includes specific categories of returnees such as young girls and boys under the age of 18 who are being targeted to travel abroad to participate in terrorist activities, and family members are joining the would-be foreign terrorist fighter. Questions arise as to whether all family members commit an offence simply by travelling and whether they should be prosecuted even if, in some cultures, a woman must follow her husband. The question of offences committed by parents against their children by taking them to conflict zones also arises.

409. One of the main issues raised in this regard is the role of prosecutions in the context of a comprehensive strategy on foreign terrorist fighters. The application of certain legislation could be counterproductive to the overall goal of preventing terrorist acts within the framework of a comprehensive foreign terrorist fighter strategy. It might be preferable to charge the offence of illegal border crossing in such cases. It might also be asked whether a different approach should be contemplated for cases involving minors, wherein the development of a counter-narrative is equally urgent. Member States should develop prosecution, rehabilitation and reintegration strategies for returnees and share their experiences with others.

D. Counter-financing of terrorism

410. The rise of terrorist groups such as ISIL poses new terrorism-financing challenges for the international community. Because of its capacity to exploit the economic resources available in territories under its control, ISIL is virtually self-sufficient. The Security Council has adopted several resolutions, including resolutions 2170 (2014) and 2199 (2015), aimed at disrupting illicit financial flows to ISIL and preventing it from accessing funds. The Council has also condemned any direct or indirect financial engagement with the group. Security Council resolution 2178 (2014) requires Member States to criminalize the financing of foreign terrorist fighter travel, which represents a relatively small, but not insignificant source of revenue for ISIL.

411. ISIL wealth derives primarily from the exploitation of local oil fields and refineries (the products of which are illegally smuggled outside, or consumed within, territories under its control) and agriculture, bank robbery, taxation, kidnapping for ransom and the looting of antiquities. It also uses newer methods, such as fundraising through social media or crowdfunding (a technique that provides access to a large group of individuals, usually via the Internet). The use of newer online or remote payment methods is also facilitated by widespread access to the Internet and mobile services, as well as by the anonymity provided by such services. The increasing use of these funding methods by terrorists requires that Member States review the relevance and effectiveness of existing tools to counter the financing of terrorism, aimed at disrupting financial flows and preventing terrorist groups from either accessing funds or (as is the case with the smuggling of oil and cultural artefacts) profiting from the sale of their resources.

412. Many foreign terrorist fighters are attracted by the offer of full coverage of expenses, including social benefits and medical coverage. The cost of travel to conflict zones is often relatively low (a few thousand dollars to pay for tickets and basic equipment). Although most foreign terrorist fighters fund their travel either through their own personal resources (including welfare or unemployment benefits) or through criminal activities (credit fraud, theft or trafficking), recruitment networks have also been mobilized to fund travel. As shown in a few Member States' case studies, funds are also transferred or accessed after foreign terrorist fighters arrive in conflict zones, through money-services providers located in border areas. The limited amounts of money involved and the short time frame required to travel to conflict zones makes it difficult for Governments to detect foreign terrorist fighters. Analysis of the economic and financial situation of known foreign terrorist fighters can help financial intelligence units to build a financial profile, which will assist in providing clear guidance to reporting entities, law enforcement and intelligence agencies. Member States should strengthen the capacity of their financial intelligence units to access information from law enforcement or other relevant public agencies (e.g., customs, border, and national intelligence agencies) in tracking terrorism-financing financial flows.

413. Enhanced cooperation within and between public sector agencies, both domestically and internationally, is critical to the identification of foreign terrorist fighters. This includes providing financial intelligence units with access to personal information, such as social security and tax records (which are often subject to domestic data and privacy laws) and improving mechanisms for the sharing of information, both among financial intelligence units and between such units and other relevant agencies. There is also a need to ensure that information-sharing by Government entities, financial intelligence units and other key players involved in countering the financing of terrorism is integrated into overall counter-terrorism efforts. Member States should ensure that law enforcement agencies responsible for anti-money-laundering/financing of terrorism are empowered to conduct financial investigation in counter-terrorism issues. Terrorism-financing investigations should form an integral part of national counter-terrorism strategies and investigations. States should also facilitate the use of international information-sharing mechanisms to assist relevant national authorities in obtaining and/or providing assistance in cross-border terrorism-financing cases.

414. Another issue of concern is terrorist groups' increased reliance on kidnapping for ransom and hostage-taking as sources of income. Africa (and particularly the Sahel) is among the regions most affected by these crimes, which generate significant income (often raised through networks of facilitators). The Security Council, in resolution 2133 (2014), reaffirms that terrorists should not directly or indirectly benefit from proceeds of kidnapping for ransom, which is most effectively countered through prevention (including outreach to travellers, local communities, and private and non-profit sectors). There is a growing interaction between international terrorists and transnational organized crime, particularly in areas where terrorist groups are active, where there are existing trafficking routes, and where there is significant political instability. Even though terrorists and transnational organized criminal groups have different objectives, they understand that the sharing of expertise and networks can be mutually beneficial. In the Sahel region, for example, drug trafficking and its links to corruption, terrorism financing and drug use have become a particular source of concern, as they tend to exacerbate

the region's vulnerability and insecurity. In order to deprive terrorist groups of funding sources, Member States must strengthen anti-money-laundering/counter-financing of terrorism measures.

415. Security Council resolution 1373 (2001) requires States to criminalize the wilful provision or collection of funds, by their nationals or in their territories, for use in the carrying out of terrorist acts. Member States have generally been diligent in their implementation of the terrorism-financing elements of resolution 1373 (2001). A large number of States have criminalized terrorism financing as a stand-alone offence (although, in order to prove the terrorist financing offence, a link with a specific terrorist act is often required). While recognizing the potential challenges deriving from the existence of various constitutional and legal traditions, the Committee encourages States to develop legislation, guidance and protocols to meet this challenge. In enacting such legislation and in developing guidance and protocols, Member States should comply with all their international obligations, including in particular the right to fair trial. The level of convictions for terrorist financing remains relatively low, overall, even in regions where the terrorism risk is high (although some States use other offences to prosecute and convict terrorist financiers). Furthermore, most States do not yet adequately address the financing of a terrorist organization or that of an individual terrorist, for any purpose. This is a significant shortcoming, since terrorists use funds not only to carry out a terrorist acts, but also to pay for preparatory acts and fund their ongoing operations. With regard to the implementation of the financing elements of resolution 2178 (2014), only a small number of States have criminalized the financing of foreign terrorist fighter travel for the purpose of the perpetration, planning, preparation of, or participation in terrorist acts or the provision or receipt of terrorist training.

416. One of the most effective ways to combat terrorism is to prevent terrorists and terrorist entities from accessing the funds necessary for recruitment, training, and the planning and commission of terrorist acts. The level of compliance with the requirements of paragraph 1 (c) and (d) of resolution 1373 (2001) remains inadequate, however. In conducting assessments on behalf of the Committee, the Counter-Terrorism Committee Executive Directorate has become aware of the many challenges faced by Member States in their efforts to establish and implement an effective freezing mechanism that is consistent with the relevant international standards and human rights obligations. Many Member States have developed domestic asset-freezing mechanisms, but their use remains limited. Confusion between the freezing requirements of resolution 1373 (2001) and those introduced by Security Council resolutions 1267 (1999) and 1988 (2011), which establish a Security Council sanctions regime, is one reason for the lack of conformity. Another source of confusion is the reliance on criminal proceedings as a provisional measure. Use of this process need not, but often does, result in States' failing to freeze funds "without delay", as required by the resolutions. States should make more effective use of the asset-freezing mechanisms set forth in resolution 1373 (2001) as a way to disrupt terrorist activity, including by adopting procedures to make national terrorist designations, in compliance with human rights principles.

417. Security Council resolution 1373 (2001) also requires that States review and respond to international freezing requests. The analysis by the Counter-Terrorism Committee Executive Directorate shows that this important international cooperation tool is very seldom used. In many States, foreign requests are made through mutual legal assistance channels. Again, this does not allow States to freeze

assets without delay. The limited use of the foreign-request mechanism is a matter of concern. States should adopt and implement a dedicated mechanism for requesting foreign States to take freezing actions. The mechanism should be distinct from that used for mutual legal assistance requests.

418. Another challenge in the implementation of resolution 1373 (2001) and other relevant standards (including Financial Action Task Force recommendation 32) is the effectiveness of border cash-declaration systems. Even though such mechanisms are in place in a large number of States and implemented by their respective customs authorities, controls are carried out more for the purpose of controlling foreign exchange flows or collecting tax revenues than for combating cash smuggling and detecting possible money-laundering or terrorism financing. Coordination between the customs authorities and the financial intelligence unit is often limited, and relevant information contained in declaration reports is not provided to the financial intelligence unit for further analysis. Effective cash-declaration systems and the ability to seize cash and investigate possible links to terrorist financing are particularly relevant in cash-based economies. Member States should adopt effective cash disclosure or declaration procedures at their borders in order to stop, restrain, and enable confiscation of illicit cross-border transportation of cash, including funds to support further recruitment of foreign terrorist fighters.

419. An increasing concern over recent years has been the potential vulnerability of the non-profit sector to terrorist financing. Terrorist groups abuse non-profit organizations either to raise funds or to channel funds to conflict zones. This requires that Member States raise the sector's awareness of the risk of misuse while not compromising the vital role played by the sector in providing support to populations in need. In some States, the use of anti-money-laundering/counter-financing of terrorism laws has had the effect of undermining the sector's actions. A balanced and proportionate approach is required. In most regions of the world, efforts have been made to raise awareness of this issue and to adopt enhanced financial transparency and oversight rules. Umbrella organizations and self-regulatory authorities have also adopted codes of conduct. However, many States have not yet conducted a thorough review of the adequacy of legislation concerning the risk of potential abuse or assessed the risk to non-profit entities at particular risk of abuse (whether because they represent a large volume of funds or donations or because they operate in the vicinity of terrorist sensitive areas). Member States should continue to sensitize their private sectors (including financial institutions and non-profit organizations) concerning their vulnerability to terrorism financing, including through the conduct of comprehensive national risk assessments. In conducting such a review, it is essential that States engage directly with the non-profit organization and private sectors in order to prevent financial institutions from closing the bank accounts of non-profit organizations because of the potential risks involved.

E. Law enforcement

420. In order to implement resolution 1373 (2001) effectively, Member States must establish a comprehensive and integrated counter-terrorism strategy. In the past, such strategies tended to focus on responses to terrorist attacks aimed at mitigating their impact, assisting victims, and restoring public order. However, the current survey indicates a trend towards the development of strategies that also emphasize

prevention of threats to national security. This is a welcome development. In view of the rapidly evolving threat environment, States should periodically review their national threat assessment and counter-terrorism strategies to ensure their continued relevance and effectiveness. Since the previous survey, a number of States have not only developed and implemented counter-terrorism strategies, but also proactively updated existing national strategies in response to changing risk factors. However, overall progress since the previous survey has been limited. Only 27 States currently have sufficiently comprehensive and integrated counter-terrorism strategies in place. Of greater concern, however, is the fact that 134 States have either a minimum strategy or no strategy at all in place. Moreover, 42 of these States are considered to be among the group of 78 States identified in the second foreign terrorist fighter report as being most affected by the foreign terrorist fighter phenomenon.

421. States must ensure that their strategies respect human rights through the inclusion of effective and independent law enforcement oversight mechanisms and legal approaches that uphold the rule of law. Information regarding respect for human rights in countering terrorism is generally lacking, but this area appears to require particular attention, since only 14 States are known to fully meet this requirement.

422. Another area of .aw enforcement action that requires attention is the introduction of legislative measures to criminalize the illicit manufacturing, trafficking, or alteration of firearms. Paragraph 2 (a) of resolution 1373 (2001) requires all Member States to refrain from providing any form of support, active or passive, to entities or persons involved in terrorist acts, including by eliminating the supply of weapons to terrorists. However, only 78 States currently have adequate or nearly adequate laws in place. Member States should develop legal mechanisms aimed at eliminating the supply of weapons to terrorists and thoroughly consider the operational effects of such legislative provisions, as well as the resources required to ensure effective law enforcement.

423. Most States visited by the Committee experience challenges in implementing arms tracing and tracking procedures and ballistic fingerprinting technology in order to trace guns and ammunition. Although a few States have implemented mechanisms to address arms tracing (e.g., legislation requiring that unique identifying marks be placed on each firearm), the illicit obliteration of firearms markings still occurs, raising doubts as to the effectiveness of such provisions and raising the question of whether a more practical approach is needed. In their efforts to develop legal mechanisms aimed at eliminating the supply of weapons to terrorists, States should thoroughly consider the operational effects of such legislative provisions, as well as the resources required to ensure effective law enforcement. It is critical that States also strive to eliminate the supply of weapons to terrorist organizations by actively supporting international protocols. Currently, 101 States are parties to the Firearms Protocol. This represents an increase of 17 States since the previous survey. A number of States also engage with the Programme of Action on Small Arms, which provides a framework for activities to counter illicit trade in small arms and light weapons.

F. Border control

424. Effective border control is essential in countering terrorism, as it is the first line of defence against the cross-border movement of terrorists and illicit goods and

cargo. Even though Member States have significantly strengthened border-security measures in recent years, they continue to face a number of challenges, including terrorists' exploitation of open borders, weaknesses in domestic and international information-sharing, and other vulnerabilities in border-control arrangements. Many border-control responses rely heavily on technology and equipment, both of which require financial commitment, training and capacity.

425. Paragraph 2 (g) of resolution 1373 (2001) requires States to prevent the movement of terrorists or terrorist groups by effective border controls and controls on the issuance of identity papers and travel documents and through measures for preventing counterfeiting, forgery and fraudulent use of identity papers and travel documents. With regard to document security, the vast majority of States have made significant progress towards meeting the ICAO requirement to introduce machine-readable travel documents and to take non-machine readable travel documents out of circulation. Many States have taken a further step by introducing biometric passports that include additional security features. ICAO has introduced its traveller identification programme initiative, which aims to look beyond the security of the travel document itself by securing the entire chain of custody associated with the issuance of identity and travel documents, beginning with the development and/or maintenance of secure national registry systems.

426. One of the greatest challenges in meeting the requirements of the resolution 1373 (2001) is the need to effectively screen travellers at ports of entry, which is conducted through a combination of several mechanisms, depending on whether it is an air, maritime or land border. These mechanisms include advance passenger information, passenger name record, biometric technology, and INTERPOL databases. Despite the requirement of resolution 1373 (2001), data gathered from Committee visits shows that only 37 States currently have the capacity to effectively screen travellers at all ports of entry. This is not entirely surprising, since only 53 States currently have advance passenger information systems in place and only 13 have fully linked their domestic immigration-screening process at the front line to the INTERPOL Stolen and Lost Travel Document database and Red Notices for suspected criminals and wanted persons, and to the Al-Qaida sanctions lists. A further 24 States have taken significant steps towards achieving this.

427. Another area requiring attention is the adoption of comprehensive laws against the smuggling of terrorists. A total of 143 States have signed the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime (Smuggling of Migrants Protocol) and a further 82 States have introduced domestic laws that adequately address the smuggling of terrorists. Several States have no form of legislative measure in this regard. In particular, 26 States of the group of 78 identified as most affected by the foreign terrorist fighter phenomenon have no laws against the smuggling of terrorists.

428. States must also ensure that they have in place a functioning refugee-status determination procedure that prevents the granting of asylum to individuals who have planned, facilitated or participated in terrorist acts. There are currently 58 States that have implemented, or taken significant steps towards implementing, such procedures, and 145 States are parties to the Refugee Convention, a valuable tool in determining whether an applicant is eligible for refugee status and screening for possible links with terrorism and other serious criminal activity. The

Committee's visits have revealed strengthened Government capacity to manage requests for refugee status, achieved through continuous staff training.

429. In implementing such procedures, States must comply with international human rights standards by, inter alia, ensuring that all persons enjoy the protection of the principle of non-refoulement and, in the case of asylum seekers, protection against removal until all legal remedies have been exhausted, as well as rights to legal counsel and an interpreter. The Committee's country visits reveal encouraging statistics in this regard, with 50 States having adopted legislation to ensure compliance with the principle of non-refoulement and a number of States having implemented measures to safeguard other forms of protection, such as assuring that refugees receive the same treatment as nationals with regard to access to education and social services and guaranteeing due process.

430. A further element in ensuring strengthened border controls is implementation of the WCO Framework of Standards, which allows States to balance security controls with trade facilitation through risk analysis and targeted inspections. Although the vast majority of States have expressed their intention to implement the WCO Framework of Standards, at present only 20 States have in fact implemented, or taken significant steps to implement, the Framework. The most encouraging area of border control is civil aviation security. Data collected by the Committee's Executive Directorate indicates that 191 States have ratified the Convention on International Civil Aviation, with the vast majority having implemented, to varying degrees, its annex 17 on Safeguarding International Civil Aviation against Acts of Unlawful Interference, as well as the related security provisions of annex 9. In an effort to further assist the international community in strengthening border controls, the Executive Directorate is assisting the Counter-Terrorism Implementation Task Force to organize a series of five regional workshops on the implementation of advance passenger information systems, which will focus on the technical and legal requirements of States in implementing such systems. The project will be directed at the 78 States identified as most heavily affected by the foreign terrorist fighter phenomenon, and the Executive Directorate will work with them on a bilateral basis.

G. International cooperation

431. The increase in transnational crime, including terrorism, and the growth in borderless information technology over the past decade have significantly increased the need for international judicial cooperation. Governments' responses to these trends have not kept pace with the need. In general, the use of mutual legal assistance in criminal matters by Member States is considered to be very low, especially in foreign terrorist fighter cases. Even high-capacity States rely mostly on evidence collected domestically to prosecute terrorism cases.

432. Ineffectiveness in processing mutual legal assistance requests derives from many factors, including: (a) failure to designate a central authority or insufficient legal capacity of such authorities; (b) lack of political will; (c) lack of human resources; (d) differences in legal systems and/or requirements; (e) language barriers; (f) lack of public information, such as summary of requesting procedures and requirements; and (g) lack of a focal point to initiate informal communication to prepare a request. The Committee's Executive Directorate's research reveals that 43.8 per cent of Member States have not yet designated or have only partially

designated a central authority and use diplomatic channels only. This often results in lengthy processing times. Most Member States are covered by regional agreements on mutual legal assistance. However, the level of engagement varies significantly by region, and cross-regional cooperation remains a big challenge. However, many regional agreements are open for ratification by external States, and intraregional networking should be promoted.

433. Mutual legal assistance was introduced in the pre-electronic era when records consisted of physical objects that rarely crossed international borders. Today, electronic data may cross several national borders through the Internet in milliseconds, without the knowledge of the individuals involved in the transaction. According to the Government of the United States, in the past decade alone, there has been a 60 per cent increase in the number of foreign evidence requests and a 1,000 per cent increase in the number of requests for electronic records submitted to the Office of International Affairs of its Department of Justice. Many Member States face significant backlogs of mutual legal assistance requests, which usually take months, if not years, to process. Several States have expressed concern at the limited capacity of the current mutual legal assistance system to handle current demand. The Committee may wish to call upon Member States to invest more effort in enhancing their capacities to provide mutual legal assistance. It may also wish to encourage States to develop and implement informal channels of communication, including the development of cooperation networks that operate 24 hours a day, 7 days a week.

434. There are far fewer bilateral or multilateral treaties or agreements on extradition than there are on mutual legal assistance. The challenges faced in extradition procedures are similar to those faced in mutual legal assistance procedures. The Committee's Executive Directorate data show that 37.5 per cent of States have not designated or only partially designated a central authority to process extradition requests. Moreover, around one third of Member States may arrest fugitives based on Red Notices issued by INTERPOL as a precursor to a provisional arrest of extradition. INTERPOL has been developing e-extradition tools utilizing its I-24/7 communication system. Nearly 50 per cent of Member States do not extradite their own nationals based on their constitutions or national laws. The recent trend is to amend those texts and enable the extradition of all citizens, regardless of nationality. If a State does not extradite its own nationals, it is obliged to prosecute the case subject to an extradition request based on the *aut dedere aut judicare* principle. Such proceedings are by their very nature lengthier and costlier, and tend to be less successful.

H. Human rights

435. The Security Council has continued to affirm that Member States must ensure that any measures taken to combat terrorism comply with all their obligations under international law, in particular international human rights law, international refugee law, and international humanitarian law. The Committee and its Executive Directorate have therefore continued to address relevant human rights issues in their assessments of States' implementation of resolution 1373 (2001). This is important not only in the context of States' legal obligations, but also because, as the Council noted in resolution 2178 (2014), failure to comply with these and other international

obligations, including under the Charter, is one of the factors contributing to increased radicalization and fosters a sense of impunity.

436. The Committee's Executive Directorate routinely raises human rights questions in its dialogue with Member States in order to better understand their efforts to comply with their obligations in this area. For example, the Executive Directorate asks States whether draft and existing laws are subject to review by legislative bodies or other mechanisms aimed at assessing their compliance with international human rights law. It asks whether such laws have been subject to public debate and scrutiny prior to adoption. It also asks whether special counter-terrorism measures include "sunset clauses" designed to allow periodic review of their effectiveness. The Executive Directorate also encourages States to put in place independent oversight mechanisms to monitor the activities of law enforcement and intelligence bodies and to ensure accountability in case of violations. Some States have implemented measures to enhance the compliance of counter-terrorism laws and policies with international legal obligations. However, the Executive Directorate's overall assessment is that most States still have not done enough in this critical area and it urges States to engage with relevant human rights mechanisms, including those of the United Nations system, in order to remedy any shortfalls.

437. One core issue that remains a major matter of concern, more than 14 years after the adoption of Security Council resolution 1373 (2001), is the question of the legal definition of terrorist acts. As in the past, national laws of a number of States criminalize terrorist acts in vague or overbroad terms that could lead to abuse. Paragraph 2 (e) of resolution 1373 (2001) requires States to criminalize participation in the financing, planning, preparation or perpetration of terrorist acts or in supporting such acts, but does not provide a definition of such offences. The Counter-Terrorism Committee Executive Directorate is aware of situations in several States, in various regions, in which terrorism charges or administrative designations have been framed in vague terms, allowing for their misuse against legitimate conduct, such as the expression of political dissent or human rights advocacy. More than five years ago, the United Nations Special Rapporteur put forward a "model definition" of terrorism that clearly linked such provisions with acts of physical violence (including the taking of hostages), the terms of international counter-terrorism instruments, and the intention of "(a) [p]rovoking a State of terror in the general public or a segment of it; or (b) [c]ompelling a Government or international organization to do or abstain from doing something" (A/HRC/16/51). The Executive Directorate remains concerned about national definitions of terrorism that exceed the scope of that put forward by the Special Rapporteur and thus criminalize conduct that is alleged to harm national security or constitutional order without further elaboration.

438. In general, compliance with international standards of due process and fair treatment also remains a matter of concern, notably wherever counter-terrorism measures are applied in a preventive manner. Security Council resolution 2178 (2014), on the threat posed by foreign terrorist fighters, draws an express link between its own provisions and the implementation by States of resolution 1373 (2001). As a consequence of measures taken to prevent acts of terrorism from being committed by foreign terrorist fighters, some States are considering the introduction into their national legislation of new preventive measures, such as the revocation of travel documents or the use of "control orders" to restrict liberty of movement and other social activities. As with other special counter-terrorism measures, such

provisions must comply with the principles of legality, necessity, and proportionality (i.e., they must be carefully tailored to meet a specific need). Persons subject to such measures must be informed of the reasons for their imposition and they should be able to contest such measures with the support of legal counsel before a competent public tribunal. Special counter-terrorism measures must not be applied in ways that constitute unlawful discrimination, and victims of wrongful enforcement should be able to seek legal redress.

439. A further particular area of concern that has recently attracted the attention of the Committee and its Executive Directorate is the impact of the implementation of resolution 1373 (2001) on the activities of non-profit organizations. Even though such organizations have been shown to have been abused for purposes of terrorist financing, there have also been concerns that overzealous regulation of their activities could have an adverse impact on human rights, including the rights to freedom of association and conscience. This issue was recently addressed by the Financial Action Task Force in the context of its efforts to combat financial crimes, including the financing of terrorism. In its 2015 Best Practices Paper on combating the abuse of non-profit organizations (Recommendation 8), the Task Force recognized that, although it is vital to protect non-profit organizations from terrorist abuse, it is also important that any measures taken do not disrupt or discourage legitimate charitable activities and do not unduly restrict their ability to access resources, including financial resources, in carrying out such activities. The Task Force stated that related measures should, instead, promote transparency and greater confidence in the sector. In its dialogue with Member States, the Executive Directorate therefore also enquires as to whether States' reviews of their non-profit sector laws ensure respect for the right to freedom of association and for the legitimate role played by non-profit organizations in the collection and distribution of funds.

440. Closely linked to this concern is the issue of the resolution's impact on the delivery of humanitarian assistance. Observers have noted that, in interpreting and implementing resolution 1373 (2001), some States may effectively qualify the provision of humanitarian assistance, such as shelter, food, education, and medical assistance, as a form of financial support to terrorism, if delivered in areas under the control of terrorist organizations. This raises a serious question of compliance with international humanitarian law. In a 2013 study, the Office for the Coordination of Humanitarian Affairs of the Secretariat outlined the impact of counter-financing measures on access to assistance by vulnerable populations around the globe, noting that humanitarian action and counter-terrorism share similar objectives: to protect civilians from harm and to do so without discrimination. Nonetheless, the report concluded that counter-terrorism measures have had a negative impact on humanitarian action. It recommended that the humanitarian community and donor States engage in sustained and open dialogue on how to better reconcile counter-terrorism measures and humanitarian action and urged that counter-terrorism laws and measures adopted by States and intergovernmental organizations include exceptions for humanitarian action.

441. Another issue of concern relates to the rights of refugees. Partly as a result of the territorial gains of ISIL and other terrorist groups, refugee flows have increased significantly in recent months, creating significant challenges for States seeking to respond in a manner that complies with their obligations under international law. In paragraphs 3 (f) and (g) of its resolution 1373 (2001), the Security Council calls

upon States to take appropriate measures in conformity with the relevant provisions of national and international law, including international standards of human rights in order to ensure that asylum seekers have not engaged in terrorist acts and that refugee status is not abused by such persons. The challenge of establishing whether or not asylum seekers have been engaged in terrorist activities is complex. In its dialogue with States, the Committee's Executive Directorate therefore enquires into steps taken to comply with international obligations, while also screening out persons reasonably suspected of engagement in terrorism. In order to properly assess this issue, the Committee has consistently engaged with UNHCR.

442. The Counter-Terrorism Committee Executive Directorate has also paid close attention to States' level of compliance with the principle of non-refoulement, which seeks to ensure that persons are not returned to a situation in which there are substantial grounds for believing there would be a danger of torture, whether or not such persons are suspected of involvement in terrorist acts. Because of their complexity and the dire situation faced by many refugees, these issues have placed considerable burdens on States, not least in refugee camps, where case management must be added to the challenge of meeting the urgent humanitarian needs of refugee populations.

Enclosure

Key counter-terrorism instruments

- Convention on Offences and Certain Other Acts Committed On Board Aircraft, 1963
- Convention for the Suppression of Unlawful Seizure of Aircraft, 1970
- Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, 1971
- Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, 1973
- International Convention against the Taking of Hostages, 1979
- Convention on the Physical Protection of Nuclear Material, 1980
- Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, 1988
- Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, 1988
- Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf, 1988
- Convention on the Marking of Plastic Explosives for the Purpose of Detection, 1991
- International Convention for the Suppression of Terrorist Bombings, 1997
- International Convention for the Suppression of the Financing of Terrorism, 1999
- International Convention for the Suppression of Acts of Nuclear Terrorism, 2005
- Amendment to the Convention on the Physical Protection of Nuclear Material, 2005
- Protocol to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 2005
- Protocol to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, 2005
- Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation, 2010
- Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft, 2010
- Protocol to amend the Convention on Offences and Certain other Acts Committed on Board Aircraft, 2014